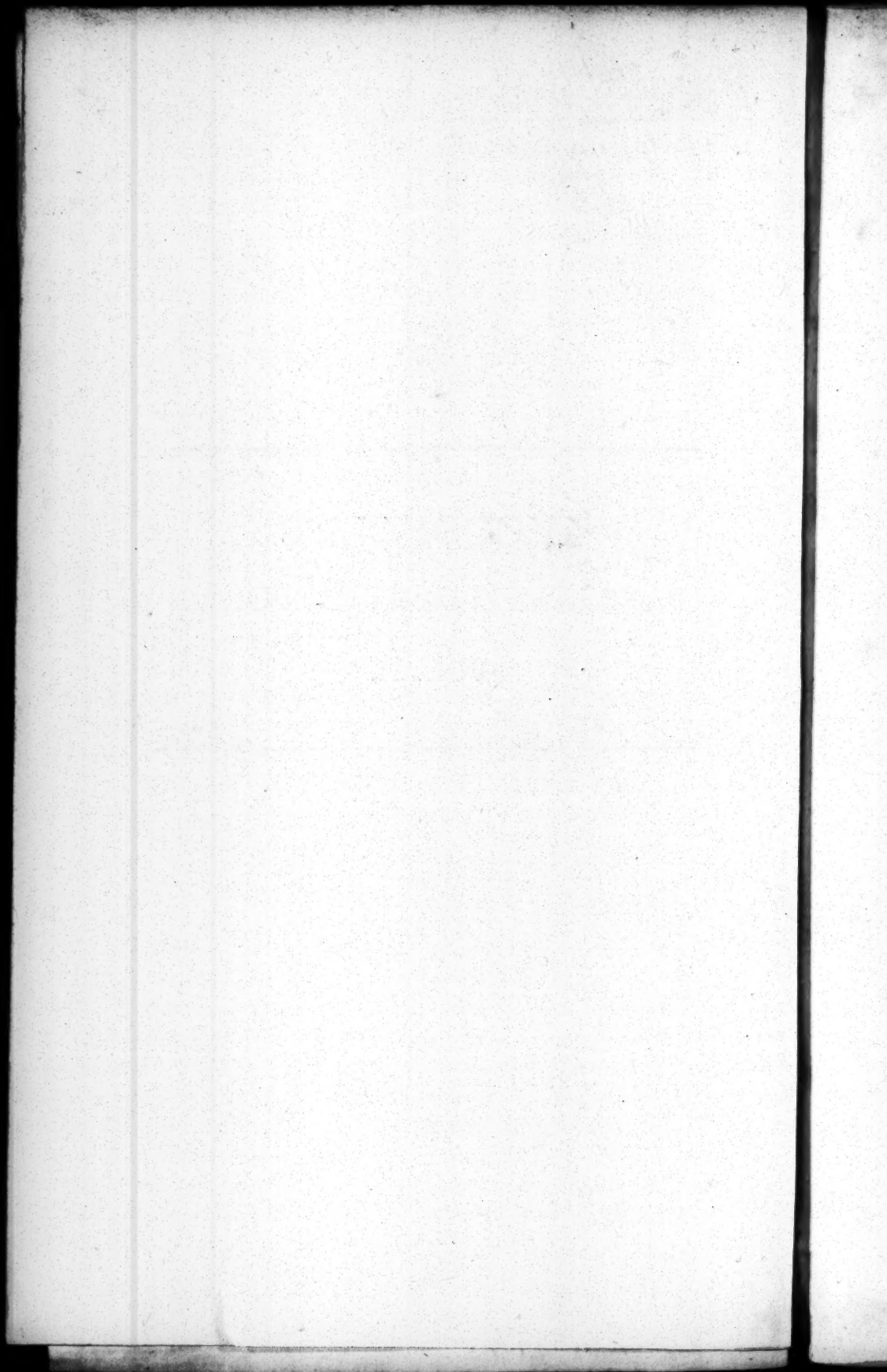
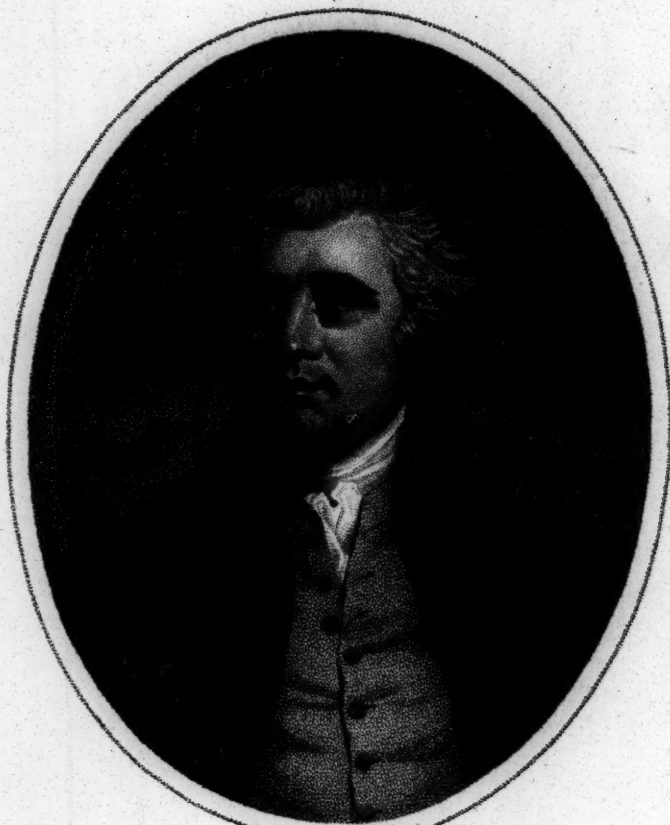

WOODFALL'S
PARLIAMENTARY REPORTS.

VOL. II.





From an original by Sir Joshua Reynolds.



Right Hon. Charles James Fox

Published by T. Chapman, 151, Fleet Street, 4p^{ts} 29. 1799.

AN
IMPARTIAL REPORT
OF THE
DEBATES

THAT OCCUR IN THE
TWO HOUSES OF PARLIAMENT,

In the Course of the Fourth Session of the Seventeenth Parliament
of Great Britain, called to meet at Westminster, on
Tuesday the 21st of January 1794.

WITH
SOME ACCOUNT OF THE RESPECTIVE SPEAKERS,

AND
NOTES AND ILLUSTRATIONS.

INCLUDING COPIES OF ALL
STATE PAPERS, TREATIES, CONVENTIONS, &c.

By WILLIAM WOODFALL,
AND ASSISTANTS.

VOL. II.

LONDON:
PUBLISHED BY T. CHAPMAN, No. 151, FLEET-STREET.

1794.

IMPARTIAL REPORT

OF THE

DEBATES

TWO HOUSES OF PARLIAMENT

IN THE YEAR 1840

BY THE EDITOR OF THE

STANDARD

BY WILLIAM ROSS

AND

WILLIAM

WILLIAM

WILLIAM

WOODFALL'S

PARLIAMENTARY REPORTS.

HOUSE OF COMMONS.

TUESDAY, FEBRUARY 18, 1794.

MR. ROSE presented the Preliminary Articles, Articles of Agreement, and the Return of the Hanoverian Troops. Ordered to lie on the Table.

Read a third time, and passed, the Indemnity, Burial and Glove Duty Repeal Bills.

An Account of the Quantity of Slates brought Coastways, was presented, and ordered to lie on the Table.

SLAVE TRADE.

Mr. Wilberforce brought in the bill to prohibit the supply of foreign dominions with slaves from the coast of Africa in British vessels, or by British subjects; which was read the first time, and ordered to be printed.

Mr. Wilberforce proposed that the bill should be read a second time on Friday next.

Mr. Cawthorne and *Alderman Newnham* objected, and moved that the second reading should be postponed till Friday the 28th, as it was a bill of so much importance to mercantile interests. They maintained, that those who thought themselves aggrieved by it, would not in a short period have time to consider it fully, and to offer it the opposition which in their opinions it required.

Mr. Wilberforce said, that the subject of the Bill had long been known; that it was well understood by those who were interested in it; that the Amendment was proposed with the same motives which had actuated Gentlemen last year, viz. with a view to defeat the Bill by delay; and that every Hon. Member of that House knew then, as well as he would do a fortnight afterwards, the side on which he should vote, and the arguments which he meant to oppose to it.

Mr. Cawthorne assured the Hon. Gentleman, that neither he nor his friends were in the habit of coming down to the House with arguments and speeches ready cut and dried. They thought the Bill would injure the dearest interests of Great

Britain, and they believed it had originated among men who were not well affected to this country.

CONVOYS.

Mr. Fox rose, in order to state to the House a motion of which he had given notice, and which, under the present circumstances of the country, appeared to him to be of importance to the kingdom at large, but more particularly the mercantile part of it. He would avoid saying any thing on the general topic of the war. For the sake of argument he would suppose it to be just, necessary, and expedient. He should consider therefore, for the present, that we were engaged in a war, the propriety of which was manifest. The matter to be considered, of course would be, in what manner the means for carrying it on might be administered with the greatest safety to the commercial interests of the country. *Mr. Fox* said he did not mean to enter into the consideration of that wide field of general defence which had been opened for ministers, on their mode of carrying it on, their operations since its commencement, or the calamities with which it had been accompanied. The single point respecting which he meant to inquire, was, What protection the trade of this country had received?—an inquiry which, if he was not misinformed, tended to contradict, and stand as a contrast to certain assertions that had been made in that House, and, he believed, pretty assiduously propagated out of doors. He meant to recommend an inquiry into the truth of facts upon this subject, that the House might be able to state to the public satisfactorily, whether or not, in point of fact, the trade of this country had, as it was said, been wisely and successfully protected; and whether or not the conduct of those, to whom its protection was entrusted, had been prudent and judicious. That complaints had been made, would hardly be denied. If they were ill founded, it was material for the honour of the individuals, and the welfare of the public, that such complaints should be examined, in order that confidence, in the protection afforded to commerce, might be extended to a future campaign. If, on the other hand, there had been a material negligence in affording protection to commerce, the public ought to know it. Those who were intrusted with the direction of our naval force also ought to know it, that they might derive a lesson from their own mismanagement, and render their future exertions of more advantage to their country. When this subject was mentioned on a former occasion, he was surprised, from his view of it, and considering the general state of politics, that no person of skill and reputation in commercial concerns should

have stood forward, and stated fairly what the protection was which our trade had actually received. If this had been done to the satisfaction of the House, his motion might have been unnecessary.

The Baltic trade, Mr. Fox said, he would begin with, because in one point he was ready to own he had been misinformed.—He had been told, on authority which he had no reason to distrust, that of one particular fleet of merchant-men that sailed from Elsinour, under convoy of the Thames frigate, sixteen or seventeen sail had been captured; of the ships that sailed with convoy, he now understood only one was captured; but ministers had no right to arrogate from that circumstance; for in consequence of the time that the ships had waited for convoy, many of them had preferred sailing without convoy to waiting any longer; and of those which so sailed, sixteen or seventeen were actually taken. If the House would go into an examination, they would find that administration had been informed of the danger to which these ships were exposed. And notwithstanding that the Baltic fleet had escaped in a great measure, there were other complaints with regard to the Baltic trade. The convoys were too large, and therefore had not sufficient protection, in consequence of which, not less than sixteen or seventeen sail of ships in that trade had been captured by the enemy in the course of the summer; and upon this point ministers could not by any means plead ignorance, for they had been informed of the danger to which that trade was exposed by their several agents, and by the persons immediately connected with the trade.

The next object he desired to call the attention of the House to, Mr. Fox said, was the Newfoundland and Quebec trade, which he was informed by letters that should be produced, if necessary, had not been sufficiently protected. So far from it, the whole advantage of one year's trade had been lost for want of a sufficient convoy to the outward-bound Quebec fleet. In March last, the parties concerned petitioned the Lords of the Admiralty for convoy to sail from the Downs or Portsmouth not later than the 10th of April, which was promised. On the 30th of April, no convoy being likely to be got ready, a memorial was presented to the Treasury; but all to no purpose. They were told that Admiral King had received the necessary instructions. On the 17th of May the fleet sailed, but arrived so late, that their goods not coming time enough for the market, were left on hand. This fleet, which was so long delayed, was valued at 300,000 l. For this fleet, which was bound to different ports, an application had been made for a separate convoy; which had been refused on the part of the

Admiralty. He stated the consequence of not granting separate convoys, from what had happened in that trade in the years 1781 and 1782. In the former year a separate convoy had been granted, when it effectually secured the trade; in the latter year, from accidental circumstances, the separate convoy could not be granted, and therefore the trade suffered materially. On the 14th of May the merchants had written a letter to Mr. Stephens, the secretary to the Admiralty, complaining that they did not receive that attention from his Majesty's ministers which they were entitled to expect, and expressing, in language and terms which some persons might have construed into a menace, that they had no hope of better treatment. Mr. Fox read the several documents, and observed that they might have been considered by those to whom they were addressed, as strong proofs that there were some respectable merchants who were not satisfied with the conduct of the Admiralty.

A second outward-bound fleet was afterwards prepared, and a demand made of a convoy to a particular day; which was also delayed. The merchants then warmly remonstrated, observing in the end of their memorial, that "there must exist a power somewhere in the country which could force the attention of Government to its mercantile interests." The freedom of this language probably gave offence to the officers of administration, and was certainly such as could not be passed over without observation. Mr. Fox said he was not one of those disposed to be over-squeamish in exacting, upon all occasions, the most respectful language from those who addressed any part of his Majesty's administration; but he confessed, that, were he a minister, he could not have read such a memorial without some degree of emotion. But he would not have shewn his resentment till he had convinced the merchants that their complaints were ill-founded, and that he had done every thing for them in his power; that consequently he was entitled to tax them with ingratitude, for sending him complaints when he deserved their thanks.

It behoved ministers to recollect, that the merchants were gentlemen to whose politics they could not take exception, having, on many former occasions, given proofs of their political partiality towards them. After having sent a remonstrance to the Chancellor of the Exchequer, to use his influence with the Board of Admiralty in their favour, was found to produce no effect, many of the merchants resolved to let their vessels sail without convoy, notwithstanding the enormous price of insurance. But this request was also refused them; and they were told that they must wait for convoy, because they

they carried some arms and military stores on board, as part of their cargo. Though it could scarcely be suspected that any part of their warlike implements was intended for the supply of the enemy, yet he would grant that it might not have been prudent to let them sail without convoy, lest they might happen to be taken by the enemy. This, however, should rather have operated as an inducement to accelerate their convoy, than as an argument for their delay; and the more so, as the ammunition being provided for the Indian market, the sale would be lost if the fleet did not arrive in time.

The homeward-bound fleet had also been detained in Quebec from an insufficiency of convoy; having no vessel to guard them but the *Severn*, which was out of condition. While they were thus waiting, information was received that his Majesty's ship the *Andromache* was arrived, in order to take charge of them at the island of Bicque, in the Gulf of St. Lawrence. On receiving the intelligence, the governor (Clark) sent off to Capt. Jones, of the *Andromache*, to request that he would remain a few days; telling him, that if his orders from the Admiralty were not peremptory, the governor would take upon himself the responsibility of detaining him, as there were nineteen ships just ready to sail. The *Andromache*, having perhaps positive orders so to do, had sailed two days before the arrival of the governor's messenger; and the fleet being freighted with grain, and obliged to proceed, out-sailed their convoy. Fortunately part of it arrived safe in Great Britain; but the other part, destined for the southern countries of Europe, Spain and Portugal, had, in all probability, fallen into the hands of the enemy; the risk being deemed so great, that scarcely any insurance would be taken on them. The last fleet, he said, did not sail till November, deterred by the supposed superiority of the enemy on the coast of America; so that the insurance on those valuable vessels employed in the fur trade, was at an end. One of those vessels alone, which was valued at 150,000 l. came home uninsured: However, she came home safe; for when one came in, and gave intelligence of the others, insurances were made; but the House would readily conceive from such circumstances, that the policies were filled up at very immoderate premiums. Thus had he shewn how far, and in what manner, the Quebec trade had been neglected; and before he had done, he had no doubt but that he should be able to shew the House, that there was not a quarter of the globe to which the commerce of this country extended, respecting the trade of which loud complaints had not been made of the want of convoys. The state of the West-India homeward-bound fleet, at the commencement

ment of the war, naturally excited the utmost anxiety in this country. On application being made to the Admiralty by the Committee of Merchants, respecting the convoys appointed for it, the answer given was, that instructions to that purpose had been sent out in the packet which failed in May; and it being asked whether any duplicate of the instructions had also been sent? the reply was, orders to that effect went out in May, by a packet to the Windward Islands; and in June, duplicates of that order were sent out in another packet. When the House considered the circumstances of an order so material being trusted at so late a period to the security of so unprotected a vessel as a packet, they must, he conceived, think it ought to be seriously inquired into. On the 11th of June, however, the order despatched in May reached the Admiral. On the 22d of the same month, the Admiral said he sent two ships to Jamaica; but did not say whether he dispatched them immediately, or postponed it. For his part, Mr. Fox said, he should rather suppose the latter; because the two ships did not arrive at Jamaica till the 27th; and the passage was not, at most, above eight days sail. The fleet arrived in safety, for which we had abundant reason to rejoice; but chance having thus befriended us, the shameful improvidence of ministers was not the less reprehensible.

Such an instance of madness had never occurred in any former war, as the sending home a fleet worth four millions of money under the convoy of a frigate; and yet, Mr. Fox said, the *Proserpine* was entrusted with this important charge, while the *Europa* was ordered to see them out of the Gulf of Florida, and then returned. No excuse, he said, could possibly be offered for so rash a measure as entrusting a fleet of that value to so very poor and inadequate a convoy, when it was known that the French had two seventy-four gun ships in that part of the world. Ministers would say, the fleet came home safe; but they were not to be justified by accidental results, for which they could take no merit, while they were answerable to their country for having neglected to employ every rational means for the security of its commerce. The protection of Lord Howe's superior fleet, after they had performed a certain part of their voyage, was too precarious to place much reliance on. It was to be considered also, that they were exposed to every possible danger in their passage through the Atlantic, especially that part of it which bordered on the coast of America, where the French were well known to be superior at sea. The situation of Jamaica was also worthy of notice, which being then at a very reduced peace establishment, was under the necessity of remaining exposed, and

and at the mercy of the enemy, whilst it detached part of its own little force to convoy this fleet to a certain latitude, although the French were at that time in force at St. Domingo.

The outward-bound West India fleet experienced no better treatment from the government. It was ready to sail on the 15th of May: The convoy was appointed for the 1st of June, and was not ready to weigh till the 23d of August. Still this was not all; for when they reached Barbadoes, which was many hundred leagues out of the way of many of them bound for Antigua, St. Kitt's, and other islands, the convoy parted company, and left them to shift for themselves; and being thus at the mercy of the enemy, many of them were also taken, in consequence of being brought out of their way many leagues.

Our trade to Germany was not exempt from the general neglect, as was severely experienced by the Hambro' and other merchants. From the lateness of the convoy's sailing, that consumption which we were before accustomed to find a market for in the fairs of Germany was lost. It was however, Mr. Fox said, the less necessary for him to dwell upon that circumstance in this place, as he should have so much to say upon it when he came to speak on the Italian trade.

From the great force we kept up in the Mediterranean, the trade to the ports in that sea might reasonably be expected to be particularly well secured; notwithstanding which, considering it in all its extent, as far as Smyrna, it never was strongly and effectually protected. At the commencement of the war it was natural, France being shut up from us, which was so capital a market, particularly in the last two years, for the consumption of our woollens, a great stagnation should take place in the manufacture of that article. The effect was such as might be foreseen, and in consequence innumerable artificers were suddenly thrown out of employment.

At this critical period large and unexpected orders fortunately arrived for the supply of Italy in those very articles; and happy would it have been for thousands if the opportunity had been made a proper use of. From the general depression of the times, the great manufacturers of Norwich, Exeter, and Leeds, though they saw such numbers of their former workmen starving for want of employ, would not venture to execute these orders, unless they had better protection than they had experienced at the commencement of the war, and an absolute promise that the Board of Admiralty would furnish them with convoys on a day which they named, in order that they might be in time for the great fairs of Italy. This promise

mise was made them, and was disgracefully violated. They continued their remonstrances to no purpose, till within twenty days of the great fair of Senegaglia. The convoys being at length appointed, they proceeded on their voyage; and, instead of sailing directly to Ancona, from whence the bales are dispatched to Senegaglia, they were taken into Leghorn. His Holiness the Pope, as a matter of special favour, deferred the fair for a fortnight beyond the regular time. But the ships were detained at Leghorn till a message was sent off to Lord Hood; and in short, such were the delays and disappointments they experienced, that before the goods could arrive at their place of destination, the fairs of Senegaglia and Salerno were over. To use a vulgar expression, the goods "came a day after the fair," and the market was lost. The consequence was, that the articles were obliged to remain till another season at the loss of one-fourth of their value, namely, 25l. per cent. upon their bills of invoice, which has put a stop to that branch of trade, as the manufacturers of these great towns, having been twice disappointed, had come to a resolution not to execute any more orders they may receive from Italy, from a dread of the repetition of the same treatment from government. While Gentlemen heard these representations, they would surely pay no regard to the ridiculous distinctions of ministers, when they said, that no vessels were actually taken under convoy. This case would prove, that the delay of convoy was often even worse than could be apprehended from capture; for had this fleet failed without any convoy whatever, they might have insured the property for less than one-fourth of its value, which was now lost under the protection of government. It was not to be wondered at, if, under the pressure of such injuries, these manufacturers used strong language in their expostulations with ministers. In confirmation of what he advanced, Mr. Fox read a letter from an eminent manufacturer at Leeds, which stated, that he would not send any more goods until the departing with them of a good convoy. This Gentleman did not at present give him any authority to mention his name; but he would certainly come forward if the House would be pleased to order an inquiry. He had another letter from Exeter, making a similar complaint; the writer of which had no objection to give his name: The letter was signed John Milford and Co.—These Gentlemen were, he declared, entirely unknown to him: He had no political interest or connexion with any of them: He did not even know who they were; but their communications to him were so reputably recommended, that he had no doubt whatever of their honour
and

and integrity, or of the truth of the circumstances they related. He next read a memorial from Leeds, which had been presented to the Lords of the Admiralty, complaining, in the most spirited and plain terms, of the manner in which their trade had been neglected for the want of sufficient convoys, and expressing the most alarming apprehensions of the total ruin of the trade, if no better care was taken in future to protect it. He knew not for a certainty that all these complaints were true, but he verily believed them to be so: If they were not, this was another instance of gross ingratitude on the part of persons who, in that case, had received favours from the Admiralty. The truth, however, he must again say, he believed to be, that they had just ground for their complaints, and that on an inquiry it would appear, they had not been protected by government at all, but, on the contrary, had been most shamefully neglected, and that government had been guilty of a gross breach of faith, and had acted towards them in a way, which, if the transaction was between individual and individual, all character for honour and worth would have been lost for ever. The House ought to look at the probable effect of all this, and to think of the many hundreds of men who would soon be out of employment in consequence of their inattention and misconduct. This, Mr. Fox said, might be considered as a kind of dispute between the Lords of the Admiralty and the manufacturers, the amount of which was: That the manufacturers had in many instances felt the remissness and the negligence of the Admiralty to be so injurious to them, that the insurance of their property in time of war was not so exorbitant as the loss would be great to them in waiting for a convoy. But this negligence, great and culpable as it was, yet was still made worse on account of the treachery with which it was attended, for promises had been held out which had never been substantiated. Possessed of such information on the subject as he was, Mr. Fox declared he could not help admiring the nerves of those who boasted of the manner in which the whole of the trade of this country had received the most complete protection! He was not peculiarly stiff in his ideas of the dignity of office, and he might perhaps be satisfied with plainer language of complaint than some others, and might not be disposed to expect high compliments on his diligence in public affairs, when men came to complain that their interests were neglected; yet he confessed, if he felt he had not deserved such severe reproaches as these memorials from the merchants conveyed, he should have inquired minutely into the facts, instead of passing them by in silence. He would have said, "Gentle-

men, I am not to blame in this business; let me explain these facts to you. You attack my character unjustly." That was not all; for these memorials were libels upon government if they were not true, and ministers should punish the authors of them. If they were true, the public ought to know it, and that could never be the case unless that House should order an inquiry into the facts.

He then entered into another part of the Mediterranean, he meant the Levant trade, in which he stated many instances of neglect. The trade of Smyrna was to have been brought home under the protection of Commodore Inglefield, but his instructions would not suffer him to wait till all of them were ready. A fleet of four French frigates were at the same time cruising in that quarter, which behaved with such disorder that the whole trade was alarmed, lest, after the departure of the English ships of war, no nation would be respected. This induced the Consuls of the different nations to apply to the Sublime Porte for its protection, and the events proved that their apprehensions had been well founded. Commodore Inglefield was no sooner gone, than the French frigates blocked up the harbour of Smyrna, so that no vessel, particularly English, could come out without the certainty of being taken; and thus were they obliged to forego every advantage of their voyage.

On a former evening, when mention was made of the Cork victualling fleet being blocked up in that harbour by a French fleet, which rode triumphant in the Channel, one of the ministers asked if it was to be wondered at, that for a moment, when we were off our guard, a few ships of the enemy should slip out, and put us to some momentary inconvenience? He would now ask in his turn, whether that fleet had yet failed? And he would appeal to every one in the least conversant with West India concerns, whether there ever was a time when the detention of the victualling fleet, comprehending the ships also from Waterford, Newry, and Belfast, could be productive of more mischief in our islands? By all the accounts that had reached him, the price of every article was so enormously dear in the colonies, that it became a matter of wonder how it was possible for the bulk of the people to procure them at all.

America, which was the only succedaneum for the supplies the West Indies might be disappointed of receiving from hence, was now shut out from them by the superior force of the enemy: And though they are thus environed with distress, and their provisions blocked up in our seas, this is the moment a minister selects to sing the triumphs of the British navy.

Mr.

Mr. Fox next adverted to the trade of Honduras Bay, of which the Hound sloop was the sole protection. The captain of that sloop thought proper to lay an embargo on all the vessels there, and kept them till they lost their insurance; and in August he took off the embargo, sailed, and left them to shift for themselves: The consequence was, that out of eleven, five were taken, and carried into Charles-Town and New York in America. In short, the Honduras trade was just as much neglected as if it had no existence.

In the African trade, a most valuable part of our commerce (he did not mean the Slave Trade), the merchants sent to know whether there was any convoy. The Boyne was allotted to them: But that vessel being found unprovided for the voyage, was obliged to return, and leave the fleet unprotected, uninsured, and at the mercy of the enemy. They should probably hear whether this was to be accounted for or not.

At Halifax also, which he had forgot to mention before, he said, a ship had been detained for want of proper assistance: It was loaded with masts; and he understood, that the loss on account of that detention was no less than 465l. per month. What then remained to be considered, but the Home and the East-India trade?

With respect to the East-India trade, it was well known that was not well protected, for French frigates had done considerable mischief to it, having taken many country ships. Of this too he could give evidence if the House should go into a Committee. He complained also that our home or coasting trade had suffered materially for want of due attention to it, of which there would be evidence before a Committee; and he was confident that the observation of the Chancellor of the Exchequer, that the circumstance of the enemy being six days masters of the Channel was not, under all the circumstances, matter of exculpation to the minister, and would not be very satisfactory to the public: The truth he believed to be, that the captures made by the French in consequence of that circumstance, might have been avoided, and was owing to the negligence of ministers.—To prove this, he read a letter which had been sent to him, dated Lloyd's Coffee-house, the 4th of February, stating, that perusing the debates on a former occasion, the author of the letter expressed his surprise that ministers did not know of the French fleet, for that it was a circumstance well known, and for fear that the same answer should be given to Mr. Fox as had been given to Mr. Sheridan, that his authority was anonymous, the gentleman subscribed his name and the firm of the house of which he was a partner, in the city of London, which was that of Wakely and Patten. This was another instance of the negligence of ministers. Indeed,

viewing the whole of their conduct, he did not see that there was any one part of the globe in which there was not some ground for complaint. The best proof, perhaps, that could be adduced of this, would appear in the number of the captures. By Lloyd's List it would be shewn, that, from the beginning of the war to the 21st of December, the number of captures made upon us was 217. The House bearing always in mind the advantageous state of alliances, &c. in which we entered upon the war, need only compare this estimate with the number of captures made upon us in an equal period, at the commencement of the last most calamitous war (the American war), in order to form a true judgment of the conduct of our present ministry. Within a month of an equal period after commencing hostilities with France, the number of captures was no more than 129—a little more than the one half of our loss in this, which had been stated to be our most prosperous era! This was a great disproportion, and told strongly against the conduct of the present war. He did not say it was conclusive; there might be good reasons assigned for it, but it was an additional argument for the House to entertain the inquiry, and more especially if the circumstances of the two wars were considered. He owned these facts surprised him, but he owned also they were capable of explanation to the satisfaction of the House, and of the public, and he was sure the latter could never be without an inquiry.

It had been asserted, that most of our navy was employed in protecting the trade of our allies. This, however, he would deny; though he was ready to confess that our allies protected themselves very sufficiently. The Dutch, our most powerful naval ally, paid so much attention to their commerce, that their convoys were more strong, more numerous, and more ready, than those afforded to the commerce of this country, and their losses consequently much less. Of the policy of the Dutch in this conduct he was not now about to give an opinion. There might be times when it would be wise in a naval power to relax its naval efforts, in order to enable itself to act with the greater vigour by land, with a view to produce the most desirable of all objects, a speedy termination of the war. The French, notwithstanding their successes in making captures, had of late neither acted with vigour nor judgment in their naval operations. Their grand effort was by land; and in that effort they had been eminently successful. We, however differently circumstanced, and differently interested, pursued another plan; but with this difference of effect, our land operations were peculiarly unfortunate: Whereas, were we to exert ourselves by sea, our naval superiority might have done essential service. If, therefore, it appeared from facts

facts which were authenticated by the various documents which he had produced, that there had been neglect in this department, he thought that the House should consent to an inquiry; and especially as it might be evident that they had not taken up the matter upon light surmise, or ill-founded suspicion, but upon the most clear and substantial evidence, which he was ready to produce at the bar of the House. No possible disadvantage could arise from the inquiry: If it appeared that the Admiralty had discharged their duty, it was for their benefit that the public should be satisfied on that point: But one great and dangerous evil would result from their refusing to go into a Committee—it would tend to stifle the spirit of inquiry, which was the essence of a free and popular government; and we should abandon that vigilance and jealousy which had been always held to be the most valuable parts of the character of the House of Commons,—that of investigating, as representatives of the people, the conduct of the servants of the executive power, to whose care the public money was intrusted, and, if necessary, to proceed to censure. When he saw much evil by silence, and a great probable good likely to result on the other hand, he could not help hoping the House would see the necessity of the step he recommended. Whatever use the House might think they were of to the public, he was fearful they would lose the whole of it in time, and with it the best part of our constitution, if they gave up their inquisitorial powers: This was applicable to our affairs in time of peace, but ten times more so in time of war. He hoped, therefore, that Gentlemen would not, upon the old beaten ground of confidence, refuse to examine into the conduct of ministers, when facts so glaring stared them in the face; and on this reliance, he would conclude with moving,

“ That it be referred to a Committee to inquire into the protection that has been given to the trade of his Majesty’s subjects, by convoy or otherwise, during the course of the war.”

Admiral Gardner rose to vindicate the Admiralty Board from the imputations cast on them by Mr. Fox. The Admiral said, at the beginning of the war, the navy was not in a state of sufficient forwardness to execute any of those duties that might have been expected. We had at the commencement set out with only 13,000 seamen. Many applications were made for convoys; the Admiralty was unable to grant all that was requested, but, to his knowledge, they did so as far as they could; for, limited as their means were, upwards of seventy convoys were given to places abroad, though the small vessels were employed in procuring men for the ships. He

retraced

retraced the grounds which had been gone over by Mr. Fox, in order to shew them in a different point of view from that with which the Right Hon. Gentleman had endeavoured to impress the House. The subject relative to Canada he had explained on a former day. The *Andromache* frigate was forty-six days on her passage, which was the reason of her not being in time sufficient to convoy the ships; but, after arriving at the Isle of Bicque, she found that the ships were all safe, and immediately after sailed for Cadiz, to protect such of the ships as had gone thither. Every possible exertion had been made by Captain Jones; and if there had been any neglect, it was owing to the merchants themselves. Lord Hood had directed Admiral Cosby to go with his squadron, protect the trade, and convoy the ships in the Mediterranean. A principal reason to be stated for irregularity in the convoys, was the blowing of contrary winds; but there had not been that irregularity which the Right Hon. Gentleman had asserted. In the West Indies, where he had been himself, there was a sufficient convoy; the *Ulysses* and *Vengeance* were there; and to these were afterwards added, by his directions, the *Hannibal* and *Hector*, both of 74 guns. He sent afterwards another 74, which, though it did not meet with this fleet, yet was of service in guarding the seas in that quarter. In September, another convoy was asked for by the West India merchants, and delayed twice by their own desire. The islands could not be in any great distress by the delay of the outward-bound ships, because their ports were open to American vessels, by which they could receive an ample supply of every necessary.

The Admiral read a letter from an officer belonging to one of the ships (Captain Thornborough to Admiral Palley) which convoyed the merchantmen, wherein it was stated, that a signal had been made to the ships to keep in a particular direction; but many of them, not attending to it, had sailed away without any protection, and these were the ships that had been taken. The Captain said, that having boarded a brig, and asked what vessels she had seen, the commander replied, that he had only seen a revenue cutter, which boarded him, and asked him why he kept a course verging so close to the coast of the enemy, when he emphatically replied, "that he was insured." Where vessels were insured, the Admiral said, it frequently occurred that commanders were either negligent or rash in conduct, which occasioned many unmerited reflections on their convoys, and on the Admiralty. He read another letter from the Elbe, signed Robert Taylor, declaring, that the trade to Hamburg had been very well protected; at least much better than in former wars, when it had been the custom for mer-
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chants to abandon their property to neutral bottoms. He did not know, he said, who this Mr. Taylor was; but he believed him to be a person of some eminence in the mercantile line.

He also read a letter, which cleared up the charge respecting the Irish convoy. It was written by the commander, and shewed, that if all was lost, no blame could justly be imputed to the Admiralty. The wind coming about easterly, he bore away for Scilly, rather than run the risk of beating in the chops of the channel; and apprised the commanders of the vessels in convoy, that he should proceed no further than Plymouth; but instead of obeying the signal, they stood up channel without any protection.

After giving a circumstantial narrative of facts relative to convoys, the Admiral confessed that he had received applications from his constituents for coasting convoys; but it was the winds that should rather have been complained against than the Board of Admiralty.

Mr. Alderman Anderson observed, that although the Right Hon. Gentleman (Mr. Fox) had confessed he had found himself mistaken in one essential particular, he still persisted that the Baltic trade had not been sufficiently protected. The Alderman said he was perfectly satisfied, from the inquiry he had made since that Right Hon. Gentleman had previously stated the inadequate protection that had been afforded our commerce, that not only that branch of it, about which they had contended, but our whole trade, had been most amply and satisfactorily protected, of which the low price of insurance was an incontestable proof. One would have imagined, from the language held out by that Right Hon. Gentleman, that he had collected all his information from a new set of Underwriters! for, from what he had been able to learn at Lloyd's, and from what we was given to understand on the subject by the London Assurance Company, the best sources of information that could possibly be resorted to, he was fully convinced that our trade had, during the whole course of the last year, been wisely and effectually protected. The result of the most minute inquiry was, that not more than two ships that had sailed under convoy had been captured. But was that a circumstance from which blame was to be deduced and imputed to the conduct of the Admiralty? He should think not; for how was it possible for ministry to have guarded against the effects of storms, and the inclemency of seasons? If those who wished for convoys, had not waited for the protection that was to have been afforded them at stated times, and if bad consequences had ensued, they, and not the Admiralty, were in fault. There was *one fact* which he could state, and which,

which, in his mind, was a complete refutation of the assertions of the Right Honourable Gentleman; namely, "That the premiums of insurance in the Baltic trade now, were precisely and exactly the same as in times of the most profound peace."

With regard to what the Right Hon. Gentleman had stated relative to the number of vessels that had been captured, and carried to a particular place that had been named by that Right Hon. Gentleman, he had only to observe, that they could *make stories* in Denmark as well as in any other part of the globe, and that upon inquiry, he had found the whole of what the Right Hon. Gentleman had stated relative to the Baltic fleet to have originated in the tale of a Danish ship-master. As soon as it had been understood that two French frigates had sailed from Dunkirk, a force was immediately sent in pursuit of them: The consequence was, that one of them was captured by the Dido, and the other was run ashore. When the Right Hon. Gentleman brought on the subject before, he said the result of the inquiry that had been made amounted to nothing. In regard to that, he could only remark, that what he had stated were plain, simple, and incontrovertible facts, which he should, and which he was convinced that House always would, prefer, when clearly stated, to the greatest elocution in the world.

Major Maitland said, before he entered into a consideration of the present question, he would shortly take notice of what had fallen from the Hon. Alderman, who seemed in some sort to triumph. All that had been asked of him on a former night, was, to answer a simple question in an explicit manner, which he would not do. The not appointing convoys when applied for by the merchants, and not keeping the promises of appointments when they had been made, were not, he contended, to be refuted by general assertions, but should be opposed by that particular inquiry to which the present motion tended. On the subject of the Quebec convoys, he condemned the Admiralty; not only for having omitted to grant sufficient convoys, but for having promised what they did not grant, and therefore they had broken their words to the merchants. It had been said, that our fleets had generally arrived safe, and that underwriters had made fortunes; but this was merely a proof of good luck, not of proper vigilance in the Admiralty. In fact, those assertions did not affect the motion, which went only to propose the institution of a Committee of Inquiry on a subject, concerning which there was a most undoubted contrariety of evidence. The convoy under Admiral King had been mentioned; his name surely would carry

carry respect in that House; but he happened to be in town at the time, and that fleet sailed under convoy of a single sloop (the *Druid*), and after waiting so long that they could not arrive in time for the Indian market. As to the homeward-bound fleet, there was so very great and essential a difference between the statements and authorities on each side of the House, that the circumstance itself pointed out the necessity for an inquiry in order to come at the truth. If, at the commencement of a war, a greater convoy was not necessary, why was any promise given to convoy them; and when they arrived at Gibraltar why tell them, Here you must remain, we can give you no further protection? He stated, upon the authority of the Exeter merchants, that the delay of their ships sailing was occasioned by the embargo laid by government upon all ships at that time; and then what happened respecting the first and second convoy at Falmouth, was entirely owing to government, and not to the merchants, who had suffered a very heavy loss in consequence. With regard to the first Jamaica convoy, it was universally allowed, that so small a force was never employed to convoy ships carrying cargoes to so great an amount in value. He really believed, that no man in Jamaica, nor any merchant not in office, would say that adequate protection had been afforded to that branch of our trade. As to the Admiralty never having heard of any application on that subject, he was surprised at the assertion; they must have entirely forgotten the application of Mr. Hibbert, by desire of the West India merchants, dated 9th of August, given in a note to Mr. Stephens, which Major Maitland read. He likewise read an advertisement in the Jamaica paper, stating the inadequacy of that convoy. The next convoy, which was for a fleet of much less value, was considerably greater in force; which proved that the Hon. Admiral was convinced of the inadequacy of the first. He likewise contended, that the island of Jamaica was not sufficiently protected at that very time, particularly as no protection could be afforded on the coast of America, which was then entirely commanded by French men of war. He assured the opposite side of the House, that his Hon. Friend, who had mentioned the unprotected state of Halifax, though in the House that night, was not well enough to bring forward what he had to say on that subject, yet he would certainly take an early opportunity to do so. He stated that a large ship, laden with masts, had been blocked up there for six months, and the demurrage payable by contract with government already amounted to 3000*l*. If any one doubted it, he would produce the contract, which was in his

pocket. He likewise mentioned that two regiments, the 6th and 65th, had been ordered from New Brunswick to the West Indies: There were no ships to carry them, and government was obliged to charter some that were not launched, were obliged to engage them for six months certain, and pay 1300*l.* before they sailed. All this proved an equal neglect as to the expenditure of money, and the protection of trade. These regiments were so long detained, that they arrived during the rainy season, and suffered very considerably. Considering the statements of his Right Hon. Friend, and considering the answers of the Hon. Admiral on the floor, he trusted that the House would deliberate a little, before they should decide upon the question under discussion. He concluded, from all that had appeared, they ought to deliberate before they came to a final decision that night; for though jealousy of the conduct of ministers was proper at all times in that House, it became so more particularly when inquiry was attempted to be quashed on such important subjects.

Mr. Alderman Curtis said, he was anxious to deliver his sentiments in support of what had fallen from his worthy colleague, relative to the Baltic trade. When the Right Hon. Gentleman (*Mr. Fox*) had made the assertion on a former occasion, he was inclined to believe that he was right. But he had since made particular inquiry, and found that 130 ships had sailed under the convoy of the *Thames* frigate, two of which had been captured; both of them, however, subsequent to the time that they had parted from their convoy. No blame could, therefore, possibly be imputed to the Admiralty, in consequence of this. He admitted, that if a greater naval force had been at Jamaica, the convoy which accompanied that fleet would have been, comparatively with the value of the ships, too small; but he saw no ground to criminate the Admiralty, for not having a greater force on that station. The Alderman declared, he had no great objection to the motion; being confident, that all inquiry would only more clearly evince the laudable conduct of the Admiralty.

It should be recollected, in the whole of the argument however, that the naval establishments of last year amounted only to 13,000 men. And what was done? Our trade had been protected, and the seas had been most effectually cleared of the enemy's cruisers. More convoys, undoubtedly, could be appointed, when the naval establishment amounted to 75,000 men. In regard to the West India trade, every ship from that quarter had arrived safe, and not a single vessel had been captured while under convoy. All the merchants, the Alderman said,

said, were perfectly satisfied with the protection that had been afforded our trade, and were content to bear the risk at a very inconsiderable premium.

Mr. D. Scott said, he meant to state a few facts, which led him to think that no blame was imputable to the Admiralty; and these facts he had collected from Lloyd's books. He had made out an average statement of the premium, and drawn a comparison between the premium this war and that in former wars. He found in the West India trade, the premium without convoy, last war, was twenty-five per cent.; with convoy, twelve per cent.: This war it was six per cent. without convoy, and four per cent. with; from which it was plain, that the premium without convoy this war, was only half of the premium with convoy last war. This, in his opinion, was the only criterion by which Gentlemen could judge of the state of protection afforded to our trade. He likewise observed, that the East India trade had been well protected; and that the only captures, in that part of the globe, were inconsiderable coasting traders.

Mr. Pybus said, that from the very complicated manner in which the Right Hon. Gentleman had brought forward his motion, he had certainly taken possession of the *vantage ground*; since, from the great extent of the question, and the vast variety of dates and circumstances that were implicated in it, it was impossible for any human memory to embrace the whole subject. The Right Hon. Gentleman would have acted more fairly, however, if he had given notice on what points he intended to dwell, as Gentlemen would consequently have had an opportunity of turning their thoughts to those particular points. He should not attempt to go over the whole of the ground that the Right Hon. Gentleman had occupied; but would content himself with observing, that, upon the whole, no possible blame could be imputed to the Admiralty. The grand and principal questions were, whether convoys had not been granted for the protection of our trade? whether the convoys that had been granted, were sufficiently adequate? or, whether the convoys that had been applied for, had not been wilfully and wantonly delayed? That they had in some instances been delayed, was beyond all doubt; for blameable indeed would have been the conduct of the Admiralty, had they complied with all the applications that had been made to them day after day. So far from being liable to blame in that respect, he must contend, that they were deserving of praise; for they had the best means of knowing the force of the country, in what manner it was most proper to be applied, and what part of it could be spared.

What had been the result? The presumption was strongly in favour of the Admiralty: Because, what interest had the Admiralty in delaying the appointment of convoys; or not doing that, which, if they omitted, must draw blame and punishment after it? He was perfectly satisfied, that the greatest exertions had been made in every particular, consistent with the general safety of the whole. The Admiralty, it should be remembered, were bound to consult the general interests of commerce, and not to bestow a partial attention to particular applications. Every application of a general advantage, that had been made to the Admiralty, had, in consequence, been attended to, and complied with. In fact, it was clearly and obviously the interest of that office, to afford every protection to our trade that circumstances would admit.

With respect to our coasting trade, Mr. Pybus maintained, it had ever been esteemed the best mode to protect it by cruizers, as better adapted to the purpose than convoys; this mode had been adopted in the present war, and with general success.

With regard to convoys, he said, no one ship whatever had been taken when sailing with convoy. And as to the Quebec fleet coming home with only one frigate, it arose from their not touching at the Isle of Bicque, to which place another frigate had been sent, for the purpose of strengthening the convoy. It was objected to this, that the merchants had no notice of it; but in answer, it must be observed, that last war that island was the place of general rendezvous; and, therefore, the merchants should have been aware of the circumstance, as an arrangement highly probable. How was it to appear, that the convoys were inadequate and insufficient? It must be made to appear, from the sentiments entertained on the subject by the great body of the merchants of the country, and not from the observations of a few discontented individuals. It was upon this view of the subject, that that House would divide upon the question. How was this general dissatisfaction, said to prevail in the mercantile world, made to appear? The Right Hon. Gentleman had attempted to prove it, by adducing a few solitary instances. Were this general dissatisfaction to prevail, it might have been supposed, that several remonstrances from different parts would have been the consequence: He knew of none. Sure he was, the great body of merchants out of doors were fully satisfied with the protection that had been afforded to the commerce of the country; and the language that had been held by the mercantile Gentlemen within the walls of that House, one solitary Gentleman excepted, was another indisputable proof of the propriety.

propriety of the conduct pursued by the Lords of the Admiralty. Surely merchants best know how to decide, whether their own affairs were properly conducted: They were themselves competent judges in matters of trade and protection, and did not require the interference or aid of the Right Hon. Gentleman (Mr. Fox). If he thought, by his eloquence, to convince the merchants and underwriters, that they were losers by the protection of the trade since the commencement of the war being neglected, he would not be able to fulfil his task, for they could judge very sufficiently for themselves. It could not be supposed that the merchants of this country would imagine that they had not acted right, if the Right Hon. Gentleman had not given his sanction to their conduct. The merchants of this country were by no means blind to their own interests. They acted with their eyes open. They had argued on facts that were not to be done away by sophistry or delusion; and the result was, their entire approbation of the conduct of the Admiralty.

The point that the Right Hon. Gentleman had given notice of, he had completely abandoned. It could not but be matter of great delight and satisfaction to this great commercial country, that, under the present existing circumstances, no ships under convoys had been captured. Mr. Pybus made a few other observations on the general subject; and concluded with declaring, that he had no personal motive to avoid an inquiry. But if the House differed from him with respect to the propriety of instituting that inquiry, he should bow to their determination, not only with resignation, but with cheerfulness.

Mr. Vaughan, having been so particularly alluded to, said, he thought it necessary to say a few words, and state evidence in support of what he had formerly advanced. As to what had been laid so much stress upon by different Gentlemen, the difference of the premium this war from last, it had been very unfairly stated, because the circumstances were completely different. In this war, we had only France to contend with: In the last, we had France, Spain, and Holland against us, besides an armed neutrality; and would any man say, considering too the present state of the French navy, that the risk was the same now, or that it was fair to state the present premium as a proof of the care and protection which the Admiralty had given to our convoys? In this opinion he was not so solitary as the Hon. Gentleman imagined, particularly with regard to the Jamaica fleet, and the time and manner that they first received information of the war. He remembered what Governor Johnstone had once said on that subject: Hearing
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at sea of the war breaking out with Spain, he studiously threw himself in the way of the ships that were carrying out the intelligence to the Havannah, and this had afterwards very lucky effects in the operations that followed. In the present case Jamaica was not indebted to this country for early intelligence of the war, for the first information they had, was from our enemies at Hispaniola. Mr. Vaughan made some remarks on furnishing war-convoys from a reduced peace establishment. He likewise thought, that two line-of-battle ships were not so good a convoy as one large ship and several smaller ones; and he wished to have the nature of that rule explained, which he understood existed, and by which an Admiral was prevented from joining a convoy, even if it was in his way to do so. He thought the first Jamaica fleet had been shamefully neglected, and stated the loss that had occurred from the detention of the rums and sugars for want of convoy. The proper station for the Channel fleet, when it was meant to protect our homeward-bound trade, had generally been reckoned to be to cruize off Brest harbour; because blocking up the enemy in port, was better than letting them out, and trusting to preventing them from falling in with our fleet. On the subject of convoys in general, he disapproved of arguing from precedents. He was of opinion, that the coast of America had been overlooked; and, from the general conduct of the appointment of convoys since the commencement of the war, that an inquiry was proper and necessary.

Mr. Grey said, he was at a loss in what manner to take up the question, at so late a stage of the debate, when no one objection had yet been offered against going into the committee proposed by the motion. An Hon. Gentleman, who spoke last but one (*Mr. Pybus*), expressed a wish to avoid taking notice of all particular complaints and details of what had been suffered from the want of proper attention at the Admiralty to convoys; and thought arguing the question upon general grounds was sufficient to prevent inquiry, notwithstanding the many facts that had been adduced. So conscious did he seem of deserving general applause, that he said the Admiralty had received that applause with one solitary exception. If so, it might have been as well that the Hon. Gentleman had produced some testimonies of that applause; but that he had not done, farther than by complimenting some opulent Gentlemen who were in business, and supporting him on the present question; though all which that support amounted to was merely matter of opinion, such as an Hon. Alderman had given, respecting his limited connexion with the Baltic trade; and what sort of general applause was this that the Hon.

Gentleman boasted of? Another Hon. Alderman had agreed as to the Baltic trade; but what did he say about other trades? Why, that he thought the protection had not been so great as he could have wished it, and hoped it would be greater next year. Mr. Grey followed Mr. Vaughan, in arguing the difference of circumstances between this and former wars, as far as they affected the premium of insurance. He deprecated the argument used by the Hon. Gentleman, that, before inquiry was necessary, we must convince merchants and underwriters that they were losers. He would allow no such grounds of argument. Success might be the effect of good fortune, but certainly could not be set up as a defence for any neglect. He argued on the neglect respecting the Quebec fleet, from documents of a conversation held early last year between Mr. Pitt and the Canada merchants. He then came to the Jamaica fleet, which subject he stated as pointing out the greatest neglect on the part of the Admiralty. In the same manner he treated the Mediterranean convoys; and both on general grounds, in particular and minute details, and direct instances, shewing that the protection to the trade had not been adequate. He stated one circumstance that had not been mentioned before, respecting the fleet from Oporto, with 20,000 pipes of wine on board, to protect which, only one sloop (the *Flora*) had been sent; and so insufficient a convoy did the merchants reckon that, they would not trust their fleet with it. When such convincing proofs as the complaints of the persons most interested in the trade were laid before the House, Mr. Grey thought they could not refuse to go into an inquiry. If his Right Hon. Friend, upon an examination of the subject, failed in the proof of what he had asserted, then he must submit to the censure of the House for having made a charge which he was unable to maintain. If, on the other hand, it should appear, that all those complaints were well-founded, and that, in fact, there had been a want of attention on the part of the Admiralty; then ministers ought to meet with the censure of Parliament, in proportion as they had neglected or misapplied the resources of the country. If they refused to grant the inquiry, it could only be upon one principle, namely, that they were conscious of their own misconduct, and were afraid to face an open investigation; but though, by that means, they might avoid public conviction, yet the natural conclusion, which every unprejudiced mind must draw upon such conduct, must be unfavourable to the ministers. Mr. Grey concluded by pressing the House to go into so proper an inquiry.

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Mr. Brandling, member for Newcastle, said the Newcastle trade was much better protected now than in former wars. Such, he could venture to assert, was the opinion of the merchants of Newcastle. He observed, that with whatever facility some Gentlemen might speak in that House, he always felt a great repugnance when he ventured to engross its attention: Upon the present occasion, however, he felt himself in a manner compelled to say a few words. Since the subject had been discussed before, he found that a Gentleman in that House, and a member for a place in the North of England, had written down to his constituents, to inquire whether they had any grounds of complaint against the Admiralty for want of convoys. He would not mention the Gentleman's name to whom he alluded, unless he had particular permission so to do. [*Mr. Grey* said he might mention the name.] *Mr. Brandling* then said, he had received two letters from Shields and Newcastle, one of which stated, that *Mr. Grey* had written down to some persons in Newcastle, to know whether they had any ground of complaint for want of convoys. His letter then went on to state, that a meeting of ship-owners and merchants was held in consequence of *Mr. Grey's* letter, and a paper was signed by fourteen of them, censuring the conduct of the Admiralty for their want of attention to convoys; and at the same time he wished to state, that another body, of sixteen ship-owners and merchants, signed another paper, in which they declared themselves perfectly satisfied with the protection which had been granted to their trade. If, then, the Hon. Gentleman (*Mr. Grey*) relied much upon the opinion of those persons who had censured the Admiralty, he had an equal right to rely upon the sentiments expressed by those who had, unsolicited by him, voluntarily come forward to give their testimony in favour of government. The House, before they determined to which they would give the preference, would consider a few facts. In the course of the last war, there were three ships of war stationed off Newcastle, for the purpose of protecting the trade. It was thought by many that this was an unnecessary expenditure of the public money, because it happened very frequently that those ships were in port, and because they thought the trade could be better protected by vessels cruising along the coast. In forming a judgment upon this subject, another point was necessary to be recollected, that above two hundred and fifty vessels were constantly going between Newcastle, Shields, and London; that there were several cruizers stationed upon that coast, who protected the trade so effectually, that not one vessel in
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that trade had been taken since the commencement of the war. Mr. Brandling concluded with a very high eulogium on the present administration, and hoped that God Almighty would continue to this country her happy constitution to the end of time.

Mr. Fox rose to read a letter which he had omitted to read when he was up before; and he said he wished to read it then, in order that Gentlemen might have an opportunity of making any observations upon it that they thought necessary.—It was from a gentleman of the name of Baker, who stated that he had fitted out a vessel with corn, which, by an order of council, was prohibited from sailing without a convoy; that the vessel was bound for Barcelona, and was obliged to wait so long for the convoy that the corn was spoiled.

Mr. Grey, in explanation, admitted that he had written down to the North, to make inquiries into the protection which they had received for their trade; but he had particularly desired that they should not send him any information, the authenticity of which was not fully ascertained; and also demanding permission to use the names of the persons sending him that information.

This occasioned a few words from Mr. Burdon, who supported Mr. Brandling's argument.

The Chancellor of the Exchequer said, that after what had fallen from various Gentlemen who had opposed the motion, particularly the Hon. Admiral, he did not think there was any necessity for him to trouble the House much, if at all, upon this question; but he conceived it to be a question of so much importance, and one in which he took so much interest, that he found himself almost irresistibly impelled to trespass for a short time upon the attention of the House. He declared that he had no hesitation in avowing a total difference of opinion from the Right Hon. Mover. He thought it a duty incumbent upon him, independent of every personal consideration, to give his negative to the motion; and he believed he might, without forfeiting any portion of that confidence with which he was honoured by the House, take upon him to assert that more groundless charges against Government never were submitted to Parliament. Scorning to shelter himself or his colleagues from the most public investigation, when deemed necessary, he would not obtrude upon his auditors any apology, which some men of opposite political principles might construe into a symptom of guilt. Conscious, however, that there was not the smallest foundation for the proposed inquiry, he was convinced that it ought to meet with resistance from him, and those with whom he acted,

because no one of the accusations had been substantiated. A committee of inquiry against public men was at all times a disagreeable proposition; but an inquiry, unfounded either in truth or reason, was on every occasion both unjustifiable and dangerous; more especially in time of war, when important information might by that medium be communicated to the common enemy.

Before he applied himself to answer the particular charges which the Right Hon. Gentleman had advanced, he wished to assert some principles, and to lay down some propositions, in which, if he was right, the discussion of the other parts of the argument would hardly become necessary. Though the protection of the trade of this country was of great importance, there were other objects that called for the attention of ministry, which were still more important in their consequences. A variety of offensive measures were to be planned and executed; large fleets were to be kept in certain places, and upon particular stations, without which convoys would be but of little if of any use. The minister of this country would consult very little indeed the interest of the people, if, for the purpose of protecting trade, he was to fritter down and subdivide the naval force of the country into convoys, instead of employing it in the great and important objects of the war: The natural consequence of such conduct must inevitably be the destruction of that very commerce which they had affected to protect. The fair question, therefore, to put to the House was, whether, considering the great and numerous objects which pressed upon the attention of ministers since the commencement of the war; whether, considering the defenceless (comparatively speaking) situation of the country when the French so suddenly and so unjustly declared war against us, and considering also the peculiar nature of the war itself; whether, after having reflected upon all those points, and then looked to the degree of protection which the trade had actually received, any serious blame could fairly be imputed to Administration?

The Right Hon. Gentleman, from an examination of Lloyd's books, had stated the number of English ships captured by the enemy, since the commencement of the war, to be 217. If he (Mr. Pitt) were himself to state the number, he had no scruple to say, he should make it rather larger, and estimate it at 236. The number of ships which had been taken by the English from the French amounted to 233 during the same period. When Gentlemen reflected upon the great and widely-extended commerce of this country, scattered over every part of the world; when they recollected the circumstance mentioned

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by the Hon. Gentleman who spoke last, that 250 vessels went to and from the ports of Newcastle and Shields every month, employed in the coal trade, the most dangerous and the largest of all our coasting trade; and when they found that only 236 sail in the whole had fallen into the hand of the enemy, in the first year of the war, the only sentiment in the House, and in the kingdom, must be that of surprise that so small a number had been captured. That surprise must be much increased, when Gentlemen called to mind the mode of carrying on the war adopted by the enemy, who, instead of consolidating their naval force into fleets, for the purpose of contesting with us the superiority of the sea, instead of attempting any great offensive operations, had divided their marine, with the single object of annoying our commerce. Besides this, the House would not forget the situation in which this country stood at the commencement of the war; our naval and military force reduced to a small peace establishment, trusting to the good faith of the powers of Europe for the continuance of peace, when the French, in defiance of treaties, and in violation of justice, had forced us into the war. But when, added to all this, it appeared, that after in a very effectual degree providing protection for our trade, and equipping three formidable fleets, *viz.* that in the Channel, in the West Indies, and in the Mediterranean, we had actually taken from the enemy an equal number of ships from their narrow and mutilated trade; when all this appeared, ministers, so far from deserving censure, would, in his opinion, be acknowledged by every candid man to be entitled to the applause of their country. He desired not to be understood to assert or to contend, that in every instance the most complete protection had been provided for the trade of the country; but he meant to contend, that, consistently with the other great plans which called for the exertions of the Admiralty, every possible care had been taken for the preservation of our commerce.

With regard to the allegations that had been advanced, the presumptions were all of them highly in favour of Government, it evidently appearing, that they had in no instance been remiss in their duty to the public: And that the captures, the recital of which had been dwelt on with so much pleasure by the Gentlemen on the opposite side of the House, ought to be attributed entirely to an ungovernable spirit of rashness and temerity, incited by the hopes of incredible profits, should those who adventured elude the enemy. Thus had the merchantmen been tempted to abandon the regular convoys; and thus arose the frivolous grounds of complaint. In no instance, therefore, could the bitterest calumny, or aggravation of facts,

establish any criminal negligence or deficiency against the ministers of this country.

Gentlemen had exclaimed with some degree of exultation and triumph—Are there no instances of complaint? He readily admitted, that a few individuals had evinced a spirit of discontent; but he wished to learn, in what war had commercial grievances been so few and so frivolous, comparatively speaking, as in the present? If the annals of this country were examined, it would be found, that no commencement of any war had been so remarkable for the vigilance and activity of Government, and for the protection afforded to British merchantmen trading to all quarters of the world. This assertion was corroborated by the concurrent testimonies of the highest mercantile authorities, both within and without those walls; and he was consequently astonished how any description of men could allow themselves to be so far biased by the political prejudice or passion of the moment, as to suffer the detection or exposure of a multiplicity of arguments, which they well knew were founded in error.

Were it necessary or proper for him to make a public avowal of his opinion respecting the conduct of the Admiralty Board, which had been so ably vindicated by his Hon. Friend (Mr. Pybus), he would affirm, that their genius for warfare was adequate to every critical emergency. For self-defence, they had displayed uncommon powers; and their manly and vigorous exertions had tended to check the insolence of the enemy, who, in some instances, had annoyed our trade. If Gentlemen were, however, deaf to his assertions, he could produce an invincible mode of argument. Prejudice or passion could not so far operate on the judgment of the insurer or underwriter, as to make him deny his profits; and by a reference to them, he had no objection to resolve all questions or doubts on the subject.

The Chancellor of the Exchequer said, in the appointment of convoy, many different circumstances happened, arising from a variety of causes, which occasionally rendered it necessary sometimes to delay, sometimes to alter, and even sometimes entirely to stop, the sailing of the convoy. Those who suppose, that when the application was made by merchants for a convoy for a fleet to a given place, and the vessel was appointed for that purpose, the whole difficulty was over, were much mistaken between the time of the appointing and sailing of a convoy. It might happen that the enemy had altered the situation of a part of their force, which might render it the duty of the Admiralty to give it a larger convoy, or perhaps to prevent the sailing of it: Therefore it frequently happened

happened that what appeared to the merchants to be neglect and inattention on the part of the Admiralty, was in fact the strongest proof possible of their care and vigilance; nor could they in all cases communicate to the merchants the cause which induced their conduct, without letting them into their council, and stating circumstances which perhaps the interest of the country called upon them to conceal. To illustrate this argument, he would mention a case which had occurred in the present war, and which he might now state without impropriety. A convoy had been appointed for some merchant-ships into the Mediterranean; that convoy had been appointed under the idea that Lord Hood would arrive before it in that sea. It so happened, that it became necessary to take a part of the fleet which was to have gone with Lord Hood, for the purpose of sending it to the West Indies; it was therefore necessary to prevent the convoy from sailing, as it would probably have fallen into the hands of the enemy when it arrived in the Mediterranean, it being impossible for Lord Hood's fleet to be there in time to protect it.

Gentlemen had talked about convoys, as if it were possible to send one with every trading vessel that sailed. They would not surely contend, that, instead of forming the three great fleets he before alluded to, it would have been more proper to have employed all those ships as convoys: It would not be asserted, that it was improper to have a respectable Channel fleet, which, while it protected the coast of this country from insult, actually defended the trade in a more effectual manner than convoys: It would not be contended, that it was wrong to send a fleet to the West Indies, and another to the Mediterranean. To send one to the latter was peculiarly necessary, in order to afford the Spaniards the means of exerting their force; because, though Spain, when completely armed, is a very formidable naval power, yet she has not the means of calling all her powers into action immediately, and on the sudden. If, then, it was admitted, that the conduct of the Admiralty in this point was justifiable and prudent, with what propriety could they be accused of neglecting the trade of the country? If the preparations of the kingdom had happened to have been in a state of greater forwardness, it might in some instances have been eligible to have granted larger convoys; but, after all, the Right Hon. Gentleman had not been able to produce one instance where a convoy had been refused, or where any vessel had been captured when under convoy. This circumstance was more in favour of Administration, when compared with the events which occurred at the commencement of the last French war. It might be said, that at that time
England

England had to contend with several naval powers, and that now she had only France to fight against, besides having the assistance of those powers; but when Gentlemen considered the different principle upon which that war was carried on from the present; when it was recollected, that when France declared war against us, we were at war with America, and consequently in a state of warlike preparation, but that, on the commencement of the present war, we were wholly unprepared; when those circumstances were considered, he was sure they would counterbalance the superior advantages we were supposed to have in the present war, as far as this point went.

The Chancellor of the Exchequer observed, that the Right Honourable Gentleman, and those who supported him, had relied with great appearance of triumph upon some memorials which had been presented to the Board of Admiralty by merchants who conceived their convoys had not been appointed with sufficient expedition. The Right Hon. Gentleman had commented upon some warm expressions which were contained in some of these memorials, and had said that the Board of Admiralty ought to have felt indignation at such language being held to them. He was very sure that the Admiralty would feel no indignation. He had seen those memorials before, and had felt no sentiment of that kind, because he made every allowance for men acting under the impulse of disappointment and loss; but these few solitary instances could not outweigh the general testimony which Administration had received in favour of their conduct. Members of Parliament, as respectable for the private worth of their characters as for their high commercial situations, had come forward, and given the most distinct and unequivocal proof of their approbation of the measures adopted by the Admiralty: But the evidence which went beyond all other, was that of the rate of insurance; that was a testimony which could not err. If he was founded in all those observations, which he thought he was, it would not be necessary for him to go into a detailed answer to the Right Hon. Gentleman's arguments about particular branches of the trade. A few observations, however, he would make. The first branch of trade which the Right Hon. Gentleman had alluded to, was that to the Baltic. Upon that subject, he had, with the utmost candour and frankness, avowed, that he was completely misinformed: At the same time, however, that he approved of the Right Hon. Gentleman's candour in making that confession, he could not help hoping, that the other assertions which he had made upon this subject, were not upon the same authority which had so completely misled him with respect to the Baltic fleet; but even if they were upon other

other

other authority, the Right Hon. Gentleman must forgive the House, if they felt some little inclination to doubt the authenticity of his information, after having been once so completely mistaken in a particular point.

With respect to the Quebec trade, the Chancellor of the Exchequer said, he was free to confess, that some very important statements had been laid before Government, by the Canada merchants, relative to the different articles which were demanded in Upper and Lower Canada, and as to the period when it would be necessary that they should be there, in order to be in time for the Indian fairs. He certainly could have wished that the Admiralty had been able to have afforded a larger convoy; but, under the circumstances of the war, and the general pressure upon ministers for great naval exertions, that convoy could not be given to the extent and force that he wished; that was with respect to the outward-bound fleet. As to that coming home, the vessel appointed to meet them at the Isle of Bicque, for the purpose of convoying them to this country, did actually go to the destined place of rendezvous within the time appointed, and was there informed, that the trading vessels had sailed some time before without convoy.

The next branch of trade mentioned by the Right Hon. Gentleman, had been that to the West Indies. Here also he was ready to admit, that, if it had been convenient, he should have been glad that the great West India fleet should have had a larger convoy; but as things were at that time situated, it was utterly impossible.

The trade to the Mediterranean had also afforded scope for Gentlemen to make acrimonious observations. It was true, that, in consequence of some unavoidable delays, the trade destined to the Italian and Spanish fairs had been lost. No man lamented that circumstance more than he did; but at the same time, could the blame be attributed to the Board of Admiralty? The first delay was occasioned by the request of the merchants themselves, because some of the ships from Exeter had not come to the place of rendezvous. Another delay of some weeks was caused by contrary winds; and after they had sailed, a report coming to Lord Howe, then refitting in Torbay, that the enemy's fleet was out, he sent immediately to order back this convoy, lest they should fall into the hands of the enemy. All these delays were unfortunate undoubtedly, but certainly were not the fault of Government. It had been said, that these merchants were so much dissatisfied with Government, that they would not prepare goods for the fairs this year, lest they should meet with a similar disappointment. Such might have been the language of those merchants,

chants, when giving way to their immediate feelings upon their loss; but since that time they had settled with the Board of Admiralty respecting their convoys for this year, and such arrangements had been made as would, he hoped, prevent the repetition of similar misfortunes. The Chancellor of the Exchequer observed, that he had thus taken a view of the various branches of our trade; and though he did not contend that on no occasion individual losses had not been sustained, yet he hoped he had shewn that those losses could not be imputed to the neglect of the Board of Admiralty; they had arisen partly from accident, and partly from the impossibility of our exerting our whole marine force at so early a period of the war; but now, when the navy establishment was so much increased, there was every reason to hope that a repetition of losses, small as these comparatively were, might be avoided.

Having stated the allegations produced by the opposite party, and replied to them as they respectively occurred, the Chancellor of the Exchequer added the following remarks: If the mercantile and monied interests continued to repose confidence in Government; if, when comparing the present with former times, they found much more to praise than to censure; if the good opinion which they entertained, was fortified by the most successful commercial enterprises ever remembered at the commencement of any war; then the presumption was highly honourable to those entrusted with the government of this country. All language of exaggeration, therefore, which tended to inflame the minds of a few individuals, was futile in the extreme. Every exertion, within the compass of human ability, had been made by our Board of Admiralty and by our naval commanders: And if those who murmured against Government appeared dissatisfied that the various fleets had not been more stationary, subdivided, or frittered away, to the danger of trade, he rejoiced at the object of their grievance: If they exulted in some losses in the commercial world, the triumph or consolation of such men excited by no means, on his part, the spirit of envy. He surveyed their motives with a calm indifference, so far as regarded his personal security; but it became him to stand forward with the most resolute firmness, when they advanced false accusations against his friends. It afforded him no small portion of pride and exultation to learn, from the debate of the evening, that, notwithstanding the most indefatigable industry, notwithstanding Gentlemen explored the best sources of information, notwithstanding they boasted of those sources as pregnant with many accusations of a criminal tendency against Government, the whole had fallen to the ground; every charge which had been advanced having been completely

completely refuted. He concluded with declaring, that he should give his negative to the motion.

Mr. Fox, in reply, observed, that almost every fact he had stated had been admitted; and that the few which had been questioned, he was ready to prove, if the House would agree to go into the inquiry. From Exeter, Leeds, Norwich, and other manufacturing towns, he had produced information which could not be denied, that ministers had made promises to the manufacturers which they had not kept; that ministers had not given the notice which they ought to have given, when they found that the convoys could not be ready at the times appointed; that such losses had been sustained as deterred manufacturers from preparing goods for foreign markets, which they had been accustomed to supply; and that the consequent distress had not been confined to the opulent, but had fallen heavily on the poor, many of whom were now crowding the workhouses, and who, if their employers had not been thus disappointed, would have been at this time earning a respectable subsistence for themselves and their families. Insinuations had been thrown out against the mode in which his information had been obtained. On a matter of public importance, it was surely no crime either to ask for, or to give information. To those who had exerted themselves to obtain information for him, both he and the public were under obligation. The greater part of it, however, had been sent him voluntarily. The overbearing influence of the Crown, *Mr. Fox* said, was such, as to render it extremely difficult to obtain information on any subject by which the credit of ministers might be affected; and if that influence should go on increasing, it would be vain to attempt any public inquiry into the conduct of Government. He had found men offering themselves to communicate facts which they well knew, who would not come forward to prove what they communicated. He had heard that a man, most respectable in his situation (the master of Lloyd's Coffee-house), had been told, somewhat in the way of a menace, that it was improper for him to suffer any information to go from his house which might be employed against ministers. Nay, he had heard of men valuing themselves on the dexterity with which they had endeavoured to mislead, by giving information which, when it came to be examined, would be found to be false. With all these difficulties he had proceeded in the inquiry, and was then ready to prove the charge which he had made, and substantiate it by evidence at the bar of the House.

Mr. Alderman Newnham said, his own opinion, and the opinions of those with whom he was accustomed to converse,

were, that the convoys were insufficient; and therefore he should vote for the inquiry, that it might be fairly ascertained whether or not ministers had done as much as they had it in their power to do.

The House divided on Mr. Fox's motion:

Ayes 48—Noes 202—Majority 154.

Adjourned.

HOUSE OF LORDS.

WEDNESDAY, *February 19.*

The Land Tax, Malt Tax, American Intercourse, and Scots Distillery Bills, were passed through a Committee, and ordered to be reported the 20th.

Mr. Hobart brought up from the Commons the bill, intitled, "An Act to repeal the Duties on Gloves."

SLAVE TRADE.

The Order of the Day for proceeding further in the examination of evidence on the Propositions from the Commons, for the gradual Abolition of the Slave Trade, was, on motion, postponed to this day se'nnight.

FRENCH PROPERTY IN THE FUNDS, &c.

The Bill for arresting the Property of Persons in France in our Funds, &c. was, on the motion of *Lord Grenville*, ordered to be read a second time on Friday the 21st.

MUTINY BILL.

The Duke of Norfolk, on the motion for this bill being referred to a Committee, begged to make a few observations, preparatory to a measure which his Grace should offer to the consideration of the House in that stage of the business. A number of Hessian troops had been lately disembarked, and landed in the Isle of Wight, and were now there, as he understood, under no sort of restraint, without discipline, and without being subject to the military laws of this country. They were landed without the consent of Parliament, and remained unfactioned by any act of the legislature. This he considered as highly improper; and therefore it was his wish to introduce into the Mutiny Bill a clause, founded on the necessity of our present situation, to legalize the Hessians being in these realms, and to render them, as had been done in the case of the Scotch Fencibles, amenable to the military laws of Great Britain, so long as they continued there.

Earl Spencer assured their Lordships, that no man was more firmly attached to the constitution than he was, but he thought sufficient information had been given in his Majesty's message to that House, with respect to the necessity of landing the

troops alluded to; he declared that he should be the first to oppose any Act of Parliament which should legalize the introduction of foreign troops to guard this country, while the British forces were fighting the battles of Germany. He thought that the Mutiny Bill was a very improper manner of introducing the amendment which the Noble Duke proposed, and that the proposition should be made, as all propositions of a new and extraordinary nature hitherto have been made, first by a notice to the House, and then by a motion, in whatever manner the Noble Mover thought best adapted to his purpose. For his own part, he conceived, that to make the Mutiny Bill a conveyance to *legalize* the introduction of foreign troops into this kingdom, and to warrant their continuance there, was not constitutional; and on that ground alone he should wish the Noble Duke not to press the motion.

The Duke of Norfolk replied, that if ministers would give him any assurance, that they meant, in any shape, to sanction the landing of these troops, he should not persevere; but if it was intended to let the matter rest as it did at present, he should certainly proceed, and take the sense of the House on his motion.

Lord Grenville thought it would be better to suffer the bill to go into a Committee; and their Lordships might use their discretion as to any clauses that might be proposed. He had another reason for wishing this mode to be adopted, which arose from the consideration of a subject which stood for discussion on Friday next; namely, the question of legality in landing the Hessian troops. Possibly the event of that debate might facilitate the discussion of the subject of the Noble Duke's motion; and perhaps it might then appear more eligible to bring in a distinct bill for that purpose.

Lord Thurlow confessed himself to be unable to give his opinion on this very important question at present, as there was not before their Lordships an iota of information on which to form an accurate judgment. He was sure the Noble Duke had no intention to take the House by surprise, and thought it more advisable that this subject should come before their Lordships on a future day; of which due notice should be given: In the interval their Lordships would bestow their attention on it. If the measure intended by the Noble Duke was a just one, the only true, proper, and constitutional method that offered, was to move for a bill, and to give previous notice of what were the principal heads of that bill. By these means the legality of landing the troops would come into open and fair discussion; whereas by the present mode, a new matter of infinite importance, which in a great measure altered

the law of the land, was to take its origin by way of amendment to an old law, though it was a law annually passed.

The Earl of Lauderdale said, that, as a friend to the constitution, and jealous of the liberty of his country, he could not consent to any measure which tended to the infringement of either. He attacked ministers for bringing into this country foreign troops, contrary to the spirit and letter of the constitution. He inveighed warmly against that system of government which resisted all inquiry into the real cause of the landing of these troops, and wondered much at their refusing to say for what purpose the Hessians were intended, to what expedition their assistance was requisite, how long they were to continue, what their numbers were, and whether those numbers were to be increased? If the object be, that British subjects are to be sent to the Continent to fight the battles of the Allied Powers, and foreign troops are to be brought into Great Britain for the internal defence of the country, his Lordship declared he would oppose such a measure to the utmost.

The Earl contended, that foreign troops in this country, unfashioned by Parliament, were dangerous innovators. They were ever held to be so, and at this moment particularly to be dreaded. His voice, he said, was for the liberties of the people, and the security of the rights of mankind; and he could not see those rights invaded, without doing his duty, in opposing that which he deemed to be dangerous. He thought it rather strange, and indeed suspiciously to be apprehended, that his Majesty's ministers should prefer having foreign troops to protect this realm to the native citizens of the country; and he could not but blame that measure which sent Englishmen to shed their blood in defence of Germany, while foreigners were imported to guard the realms of Great Britain. He therefore thought that something should be done which might bring these foreigners under the subjection of the military laws of this country; at present, they were not amenable to them. He wished to know, what was the purport of their taking up their residence in the Isle of Wight, for Parliament was wholly uninformed on the subject. There was not a single document on their Lordships' table to prove to what end their landing pointed, or what benefit this country was to reap from their arrival.

Earl Stanhope loudly condemned the landing of foreign troops in this country, for any purpose whatever; for, notwithstanding the false alarm which ministers had so artfully propagated with respect to the disaffected people of this country, they had not been able to bring the name of any one before the House.

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The Earl said, he was clearly of opinion, that notice should always be previously given before any matter of importance was agitated, that the Lords might be duly summoned, according to the usage of Parliament. In respect to the present business, he thought his Majesty's ministers acted most unconstitutionally. He had heard it averred by a minister, that the landing foreign troops in this country, without the consent of Parliament, was constitutional; and he had heard it treasonably asserted, that this was the prerogative of the Crown. He called it treasonable, and to prove that he was warranted in using that expression, he would define what Judge Blackstone said of treason, *viz.* It was a felony, in which the person who killed the traitor was justifiable—Justifiable homicide, said the Noble Earl—But if the traitor killed the citizen, who in such case attempted his life, it was murder.—For his own part, he said, he would defend the liberties of the people against all traitors to the constitution, and all treasonable practices, at the hazard of his life and fortune—and he cared not who they were.

Lord Grenville said, he did not know to whom the Noble Earl alluded, when he spoke of treasonable practices. He agreed with him that traitors ought not to survive their treason to the constitution. He was convinced that there were in this country certain disaffected subjects, who would readily pull down that venerable fabric which was the envy and admiration of the world; but he saw no necessity for enacting new laws for its protection, those already in force being sufficient to punish their impotent attempts to violate it. As to the subject of the Hessians being landed, he should soon have an opportunity of justifying that measure on constitutional grounds.

The Earl of Lauderdale called on the Noble Secretary of State to come forward boldly, and point out the disaffected persons to whom he alluded. He suggested the danger of such mysterious allusions, and thought it incumbent on the Noble Secretary of State to give that House all the information which his official situation enabled him to do; for although they were not all confidential servants of the Crown, they were all equally the guardians of the constitution. He thanked God that his conscience was clear; But, if such men existed as the Noble Lord had described, why were they not taken into custody, why were they not prosecuted, and why had not Parliament instituted a strict inquiry into the subject?

Lord Grenville replied, that their number was insignificant, and their cause weak; and that as the present laws of the land were sufficiently adequate to punish the offenders, it was totally unnecessary to draw up and pass a new Act on the subject.

ject. Some of the inferior delinquents had already been brought to punishment by their country.

The Duke of Norfolk withdrew his Amendment, as he understood the subject was to be argued on Friday, which he had not been aware of before he heard it from a Noble Earl (*Stanhope*).

HOUSE OF COMMONS.

WEDNESDAY, *February 19.*

Upon the question for the second reading of the *St. Alban's Bill*,

Mr. Buxton moved an Amendment, that the words, "this day six months," should be inserted instead of the word "now."—After a short conversation, the motion was withdrawn, counsel were heard, and witnesses examined, against the Bill; after which the debate was adjourned to the 20th.

Adjourned.

HOUSE OF LORDS.

THURSDAY, *February 20.*

Heard counsel in respect to the claim of the Barony of *Clinton*, and adjourned the Committee until one o'clock next day.

The *Loan Bill*, and two *Naturalization Bills*, received the royal assent by commission. The commissioners were *Lord Kenyon*, the Bishop of *London*, and *Lord Grenville*.

Adjourned.

HOUSE OF COMMONS.

THURSDAY, *February 20.*

Huddersfield Canal Bill was read a second time, and committed for Thursday the 27th. A petition was presented against it.

ST. ALBAN'S CANAL BILL.

Mr. Bingham moved, that this Bill be committed.

Mr. Eait, *Lord Carysfort*, *Mr. Serjeant Watton*, and *Mr. Powys*, spoke against it; and *Mr. Stanley*, *Mr. Baker*, and *Mr. Wyndham*, in favour of it.

Mr. Speaker then put the question, whether this Bill be committed? on which the House divided, when there appeared,

<i>For the Commitment</i>	23
<i>Against it</i>	24

Majority against the Bill	1
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HOUSE

HOUSE OF LORDS.

FRIDAY, *February 21.*

The royal assent was given by commission to the Land Tax, Malt, British and Foreign Spirits, Sugar, Marine Mutiny, and American Intercourse Bills.

TRIAL OF WARREN HASTINGS, ESQ.

Lord Sydney said, he was extremely sorry to have occasion to rise to propose any thing that might tend to the further delay of the trial of Mr. Hastings; but knowing from the best authority, that *Marquis Cornwallis* was so much indisposed, that it would be impossible for him to attend Westminster Hall on Monday next, he stated what had passed at an interview which he had that morning had, and submitted to their Lordships, whether it would not be proper to apprize the House of Commons of the circumstance, to postpone their proceeding to the Hall on Monday the 24th, if they did not take his Lordship's depositions in private.

Earl Stanhope said, the proposition of the Noble Lord would defeat the ends of justice, and revolt the minds of every friend to public proceeding in criminal cases. He totally disapproved of examining witnesses in private: He thought that the Noble Marquis should be examined before the court, that the parties might have an opportunity of cross-examination.

Lord Hawkebury, the *Duke of Norfolk*, *Lord Mansfield*, and other Noble Lords, agreed that the Commons might, if they pleased, proceed in the trial without waiting for the attendance of the Noble Marquis, though they would, no doubt, be glad to avail themselves, as well as Mr. Hastings, of his evidence.

Lord Kenyon said, that going down to the Hall without the prospect of proceeding, he hoped would not be adopted by their Lordships, as it would so materially interfere with the business of the court in which he had the honour to preside, where a greater number of causes stood for trial than it was probable the limited number of days would permit the court to go through. Mr. Hastings had applied, though he had closed his defence, to be permitted to avail himself of the evidence of Lord Cornwallis, which had justly been granted him; an application, in his mind, extremely natural on the part of Mr. Hastings, and in every point of view proper to be granted. The Managers for the Commons, on the other hand, had declined proceeding until Mr. Hastings had finished his defence, which they were fully entitled to do. As, therefore, it was probable an application might be made for further delay,

lay, he could wish it to be adjourned over Monday the 24th. At length, after much further conversation, and the proposing of different days and different modes of proceeding, it was agreed, on the motion of Lord Hawkesbury, that their Lordships should proceed further in the trial of Warren Hastings, Esq. on Tuesday the 25th.

INDEMNITY BILL FOR LANDING HESSIAN TROOPS IN THIS KINGDOM.

The order of the day having been called for and read by the Clerk,

The Earl of Albemarle rose to bring forward the motion of which he had previously given notice, and prefaced it with a speech of business, throughout which the *lucidus ordo* shone conspicuously; we scarcely remember a clearer method of arrangement adopted by a Member in either House of Parliament at any period, and never recollect a similar instance on a first essay. His Lordship began with an apology to the House, for so young a speaker's rising to agitate a subject of so much importance as that on which he meant to treat. He was aware that Noble Lords of greater experience and better abilities would have done more justice to it; but he conceived every Member of that House had an equal right to deliver his sentiments on every occasion interesting to the public and affecting the constitution of the country. The importance of watching over the constitution of the country was a principle so long recognised and so perfectly established, that it would be unnecessary for him to insist on what was already fully admitted on all hands; but the point of time might be objected to, and he might be reminded that a moment of dangerous and expensive war, was not the fit moment for him to select for agitating a constitutional question. In answer to this, he should say, that the vigilance of Parliament was never more necessary to be exerted than in times of public peril; for then it was that the constitution should be watched over most anxiously, lest, while the national attention was almost entirely engrossed by the great object before it, some accidental circumstance was not suffered to pass by and escape notice, which, however harmless in appearance, involved in it consequences deeply affecting the foundation and existence of that venerable fabric, which had afforded Englishmen such ample cause for admiration and gratitude, the British constitution. After various observations and remarks, all soundly constitutional, the Earl said, he would for a moment imagine, that any one of the Noble Lords present, with the patriotism and public spirit of many of whom he was well acquainted, would act a part so inconsistent with true policy, as to make a surrender of

of their principles to the existing circumstances of the day. Convinced in that point, he would not take up more of their Lordships' time in general observations, but would proceed to the subject of the motion which he should have the honour to submit to the House, and endeavour to treat it in the mode in which such subjects were usually treated in that House. His motion referred to the landing of the Hessian troops in the Isle of Wight without the knowledge or consent of Parliament, which he considered to be an illegal and unconstitutional measure. It was not, his Lordship said, his intention to enter into the question of necessity or expediency, or to impute blame to his Majesty's ministers for the measure: He should confine himself solely to the consideration how far it was legal and constitutional; and his motion would be, "that a Bill of Indemnity be passed on the occasion."

Having read the words of his motion, the Earl said, he conceived the customary mode of proceeding in support of any given proposition in Parliament was to produce precedents analogous to the point in question; with this view he had searched for and found several, which he would state; and the first was the Bill of Rights, in which it was expressly declared, that the King could not keep and maintain a standing army in the kingdom in time of peace without the consent of Parliament. His Lordship reasoned upon the fair construction of this general declaration, contending that the Bill of Rights gave no new privileges, but only recognised such as had been before granted; and as it was a declaratory and not an enacting statute, it was entitled to a liberal construction, under which it was reasonable to infer, that if the King could not maintain a standing army in the kingdom, in time of peace, without the consent of Parliament, he could not do so in time of war, because the danger to the liberties of the country would be greater in time of war than in time of peace. That this limitation of the authority of the Crown with respect to a standing army extended more particularly to foreigners, was a circumstance put wholly out of doubt by the act of King William, called the Act of Settlement, by which it was expressly provided that his Majesty "shall not employ foreigners in any place of civil or military trust within the kingdom." He would beg leave to ask, whether, if the Hessian troops were to be considered as soldiers, their officers were not in military trust, the most dangerous of all trusts that could be delegated to foreigners in time of war? He hoped however to be able to shew that, strictly speaking, the Hessians in the Isle of Wight were in no sense of the word to be considered as soldiers, or men under military command of any sort whatever. He had shewn by re-

ference to the Bill of Rights that his Majesty could not maintain a standing army in the kingdom without the consent of Parliament, and that by the Act of Settlement passed in the reign of King William, no foreigner could hold an office of civil or military trust. It remained for him to call their Lordships' attention to the Mutiny Act, a Bill which the House well knew was passed every year for the purpose of providing for the discipline of the army. In that act, they would not be able to discover any recognition of the Hessian troops, and in fact, they were not, while in this kingdom, in the eye of the law, or in the view of the constitution, considered as soldiers, or men under military command.

Having thus stated the law as it stood respecting the power of the Crown to maintain a standing army, the Earl proceeded to mention the various precedents of the conduct of Parliament and of the Legislature relative to the subject in question, to be found in the Journals and in the Statute Books, all tending to shew the jealousy with which friends to the constitution had at all times regarded every incident that seemed in the smallest degree likely to affect its fundamental principles in this particular. The first case he would mention, he said, was that of 1745-1746. In 1745 an invasion had been threatened, and the King sent a message to Parliament, stating that foreign troops had been sent for, for the protection of the kingdom, but that they had not yet arrived. In the alarm and danger of the moment, no notice was taken; but the next year the constitutional jealousy of Members of Parliament was awakened to the consequence of the measure, and several of their Lordships' ancestors entered a strong protest on the Journals expressive of their sense of the proceeding, which they declared to be highly illegal and highly unconstitutional. In 1756 it was deemed necessary to send foreign forces to America, and his Majesty's ministers thought fit to give notice to Parliament accordingly. In 1775, ministers wished to send foreign troops to garrison Gibraltar and Mahon, and landed them in England with that object, justifying the measure under the subterfuge that Gibraltar and Mahon were without the kingdom; but the evasion was scouted, and a Bill of Indemnity brought in, which passed the other House of Parliament, but was lost in that in consequence of the opposition of the late Marquis of Rockingham; who objected to the Preamble, which began with saying, "Whereas doubts have arisen, &c." whereas the Noble Marquis contended, that no doubts had arisen, but that it was a clear constitutional principle, that the Crown had no right to land foreign troops in the kingdom without the consent of Parliament. Those Noble Lords who had supported the Marquis of Rockingham on that occasion, the Earl said, he trusted

trusted for the sake of their own consistency would support his motion. The next precedent to which he would call their Lordships' attention was that of 1782, which he explained. The precedent of 1784 was, when the Hessian troops brought home from America were landed in the Isle of Wight, in consequence of the river Weser being frozen, which rendered it impossible to send them to their own country till a thaw took place. The Earl stated what had been the proceeding in that case, and shewed that his Majesty's ministers brought down a message to the House, informing Parliament of the circumstance and of its cause. There was one precedent which he had accidentally forgot to state in its proper place, and therefore he would then mention it; it was a resolution of the House of Commons in the year 1641, in these words—"Resolved, that any person who shall recommend to his Majesty to employ foreign troops within this realm shall be deemed and adjudged an enemy to the constitution and the country, and be punished as such."

Having gone through his list of precedents, the Earl proceeded to comment upon the result. He contended, that the case of the Hessians was more strong than any of those to which the precedents that had been cited referred. He argued ably to support this assertion, and clearly shewed, that if the Crown had the prerogative to introduce foreign troops into the kingdom without the consent of Parliament, it might lead to the most dangerous and fatal consequences. However harmless such a prerogative might be in a mild monarch like his present Majesty, a vicious prince might one day fill the throne, and, under authority of this prerogative, at his pleasure overrun the kingdom with hosts of foreign troops, and by their means annihilate every privilege and destroy every right which Englishmen enjoyed under the British constitution. He therefore hoped the House would concur with him in the opinion that a Bill of Indemnity was called for by the occasion, to save the constitution from infringement in one of its most essential points; at least he flattered himself he should have the support of those Noble Lords whose names appeared to the Protest of 1775, because they could scarcely be so inconsistent as to deem that constitutional, which, nineteen years ago, they in such strong terms declared to be highly unconstitutional. Whenever a constitutional question was brought into discussion, the Earl said, he conceived the most safe and sure mode of examining and ascertaining its merits, would be to recur to the first principles of the constitution, and see how it stood with regard to those principles. In what he had taken the liberty to state on the ground of law and precedent, he hoped he had proved, that as by law the King could not introduce foreign

troops into the kingdom without the consent of Parliament, so by precedent, that the Houses of Parliament, and most especially that House, had uniformly entertained a perpetual constitutional jealousy on the subject, and had never let an occasion of the kind escape their observation and pass without their notice. He trusted, therefore, that their Lordships were ready to manifest their vigilance in an equal degree, and to adopt his proposition.

Before he sat down, he begged leave once more to remind their Lordships, that he put all consideration of the expediency of landing the Hessian Troops, then in the Isle of Wight, entirely out of the question: Cases might undoubtedly occur, in which it might be justifiable, and even laudable, in ministers to risque a deviation from law and the constitution; indeed, possibly the present might be one of them, but as often as the necessity presented itself, it would be for the wisdom of Parliament to decide on the conduct of ministers, and when they deemed it to have been expedient, a Bill of Indemnity could alone close and cure the wound, that had thus unavoidably been inflicted on the constitution.

The Earl apologized for having so long troubled the House, and conscious, as he said he was, of his own inability, lamented that a subject of so much importance should have fallen into such weak and feeble hands, since it could have been so much more ably supported by others. His Lordship concluded with bringing forward a short Bill of Indemnity, which being put in the form of a Motion was read from the Woolpack.

The Earl of Albemarle then moved, That the Bill be read a second time on Monday next *.

Lord Spencer wished to understand how the question stood, as he did not correctly conceive what the question was.

Lord Hay (Earl of Kinnoull) made a similar observation.

Earl Stanhope explained, that the Bill having been read a first time, the question before the House was, that it be read a second time on Monday next.

The Earl of Lauderdale rose to speak to order. The question, his Lordship said, was through accident irregularly put. It should have been, "That this Bill be read a second time;" and the time when it should be read a second time, put, after that question was disposed of, as a distinct and separate question. This correction was admitted on all hands, and the motion stood, "That this Bill be read a second time."

Earl Spencer then said, that he was not present when the Noble Earl gave notice of his motion; but he was not dis-

* The Earl of Albemarle is lately come of age, and is the only son of the former Earl (the brother of a late Bishop of Exeter, and of the recently deceased Lord Keppel), who distinguished himself by taking the Havana.

pleased

pleased that it had been brought forward in the shape in which it now stood; for though he could not agree with the Noble Earl in the Bill which he had introduced into the House, he must declare his full concurrence in every sentiment and constitutional principle which the Noble Earl had asserted; they were the principles, in the love and admiration of which Earl Spencer said he had been educated. He congratulated the House on the pleasing prospect of future assistance from the great accession of talents which they had in the Noble Earl, and he congratulated the Noble Earl himself on having commenced his political career with the assertion of sentiments so truly constitutional; but he considered it to be his duty to declare, that, in the present instance, he saw no necessity for a Bill of Indemnity; although he considered the keeping of foreign troops in the kingdom without the consent of Parliament to be illegal and unconstitutional. The Noble Lord did not question the expediency of the measure; he had rested his argument entirely upon the legality. If he believed, with his Lordship, that the measure came within the question of illegality, he would not only vote for a Bill of Indemnity, but would join the Noble Earl in voting for some positive declaration for ever after to settle the question, and to prevent the repetition of such an act. His Lordship said, he would endeavour to follow the Noble Earl's arrangement, and first he would examine the precedents he had stated. The Bill of Rights, one of the dearest bulwarks of our liberties (and clearly a declaratory law, as it only recognised old principles of liberty, but gave no new privileges to Englishmen), makes it evident that his Majesty has not the power to employ a standing army on service in this country without the sanction of Parliament. But does the present case amount to this? surely not. The Hessian troops are not upon service in England; they are merely disembarked upon an emergency, of which due notice was given to Parliament by his Majesty's message, as soon as it was possible for ministers to do it.

Nor does the case come within the Act of Settlement; for the Hessian officers, while here, are not in any office of trust, nor were they, as the Noble Earl had correctly stated, recognised by the Mutiny Act. Here then was the distinction to be taken between the mere casual landing of troops on an emergency without employing them, and the introduction and employment of troops on actual service. For this reason the Earl said, he could not agree to the present Bill of Indemnity; and none of the precedents, of which several were by the Noble Earl's confession inapplicable, served to convince his mind that the present was a case that called for Parliamentary interference. Of all the precedents, that of 1784 was most in point.

A body

A body of Hessian troops had been disembarked in time of peace on an emergency, as they could not get to their own country in consequence of the Weser being frozen. The King's message was sent down to the House of Commons on a memorable day, on the 12th of January 1784. On that very day the House of Commons came to a vote, "That his Majesty's ministers had not come into office in a manner likely to conciliate the confidence of that House;" and yet, though thus apparently able to pass any resolution they might think fit, and not very likely to let any breach of the constitution escape their vigilance, the measure of the introduction of foreign troops into the kingdom at that time was passed over in silence. With regard to the precedent of 1641, he confessed it had escaped his notice, not having searched for precedents antecedent to the period of the Revolution; the best precedents, in his opinion, being to be found subsequent to that most important event. The orders and resolutions of Parliament in former times, though many of them were excellent in themselves, were more fit for the dry researches of a society of antiquarians, than for practical reference in a modern Chamber of Parliament. The spirit of the present motion clearly was, that the King should not keep an army in this country without the consent of Parliament previously obtained. This would be true, if it were either stated or believed that he kept this army in the kingdom for the purpose of using it in home service. If any man were to assert that his Majesty could use those foreign troops, or any troops in actual service in the kingdom, without the previous sanction of Parliament, Lord Spencer said he would be the first to impeach that man. It was the right and the bounden duty of that House to watch the conduct of ministers in this respect; and it was undoubtedly true, as the Noble Earl had stated, that their vigilance was most demanded in dangerous times, when innovations might be most successfully attempted. But he saw in the instance in question no violation of law or the constitution in the present transaction. When troops were thus landed, to justify the act it was essential they should have a foreign destination; it was essential that their residence should be temporary; and, above all, a prompt communication to Parliament was essential to justify the introduction of foreign troops. All these essential points were to be found in the conduct of the present measure. Unless their Lordships therefore could believe that all this was meant as a blind to some overt design, they could not, in his mind, think that any proceeding, on their parts, was necessary. He had no sort of difficulty in declaring, that it was not in the power of the prerogative to introduce foreign troops, either to quell domestic

mestic disorder, to take share in garrison duty, or to make a permanent residence in the kingdom, without the sanction of Parliament; but their introduction on an emergency, and under the modifications which he had stated, was clearly not against law, and wanted no indemnity. He would never give up the control of Parliament over the exercise of any illegal prerogative; but he did not conceive, situated as they were at present, that his Majesty's ministers required any interposition by bill, or otherwise, to shelter their proceedings; therefore he should give the motion his negative.

Lord Auckland said, that from the manner in which the Bill had been opened, and from the terms in which it was worded, it was the avowed object of the Mover, and of those who were to support him, to urge the House to give an opinion respecting the extent or limits of the powers entrusted to the Crown. He was sorry to see a great question agitated on very slight grounds; he would however treat it with respect, because he felt and knew that discussions have at all times contributed to the perfection and security of that constitution under which these kingdoms possess more national energy, more general prosperity, and more individual happiness, than was ever enjoyed by any people in any age or history.

With these sentiments he would separate the question from the bill, and would suppose himself to be called upon to give an opinion, "Whether it is illegal to bring foreign troops into the kingdom, by order of the King, in time of war, without the previous consent of Parliament?" To the question so stated, he could, from the clearest conviction, give a negative. He never had met with any law to restrain the King in the exercise of the discretion now objected to; he had not seen any constitutional *dictum* to the contrary in any writer of reputation, from the earliest times to the present day; there was no usage to the contrary, to supply the place of law; all the precedents produced tended to sanctify the practice, provided that, subsequent to bringing the troops into the kingdom, an immediate communication is made to Parliament.

If, however, the question were to be reversed, and he should be required to give an opinion, "Whether the bringing foreign troops into the kingdom in time of war, by order of the King, without the previous consent of Parliament, is according to law?" he was not equally prepared to say, that, to the question so stated, he could give an affirmative. The difference was material; and he must entreat their Lordships to advert to it. It does not follow, that because a case is not contrary to law, that therefore it is according to law. A
superficial

superficial knowledge of our constitution was sufficient to shew that there are many cases on which the law is silent; and in such cases it had always been the wisdom of the two Houses of Parliament to remain silent also, unless when there were unequivocal reasons to apprehend that the Crown was making a pernicious and dangerous use of the discretionary power, resulting from the silence of the law.

Putting the question of legality aside for a moment, he would next consider it upon fair reasoning; according to which, he was of opinion that such a power (which is more formidable in sound than in substance) ought to subsist in the hands of the King, to be exercised for the benefit of his people. The advantages were evident: The possible dangers were no more than may be conjured-up against every existing prerogative of the Crown.

Numberless cases may arise, of the most urgent public expediency, in which the success of a war, and the preservation of the country, may depend on the bringing subsidized or allied troops into the kingdom, without the previous consent of Parliament. That consent implies a communication to the enemy, and to all the world, of the number of troops to be brought, of the places from which they are to come, the places in which they are to be employed, and the period of time which they are to remain.

On the other hand, the Noble Lord who moved the Bill had set up an hypothesis, that a vicious Prince might land immense foreign armies, and destroy the liberties of the country. He must beg leave, without meaning any disrespect, to consider that proposition as extravagant. If it were possible for a Monarch to exist in this country, vicious enough, daring enough, and powerful enough to make the attempt supposed, he certainly would not be deterred either by the present Bill of Indemnity, or by any restraint of law. Their Lordships might in like manner argue, from imaginary abuses, against every prerogative reposed in the King, and so well defined by the best writers on our constitution, to consist "in the discretionary power of acting for the public good, in cases where the law is silent." The examples were obvious. The King has the power of pardoning offences. It may be objected, that a perverse government may take place, which would misapply this prerogative to the abuse of general pardoning, and to the interruption of the whole course of justice. Again: The King may give his negative to bills in Parliament; here it may be said that an obstruction may be given to the whole course of legislation. Again: The crown is entrusted with the prerogative of declaring war; it may be said, that a vicious Prince

may put us wantonly in a state of hostility with all the world.

A fertile imagination might raise up similar, or greater dangers, against the power of making treaties, and against every other discretion reposed in the Crown, under which the country has so long enjoyed so much happiness and so much security.

He would conclude by asserting, that there was not a Noble Lord who heard him, that there was not in the whole range of his Majesty's dominions a single individual of sound mind, who could lay his hand on his heart and say, that there exists the most remote appearance of danger to the constitutional liberties of these kingdoms, from the landing of subsidized or allied foreign troops, in time of war, under the orders of Government. Whatever, then, might be the difference of opinions respecting the law and constitution, strictly and abstractedly considered, he entreated their Lordships to leave this point as their ancestors had left it. He would accordingly leave it here, with a fervent prayer that their posterity might enjoy the blessings of the British constitution for many generations, subject to no greater danger than what in truth exists in the measure which had occasioned that day's debate.

Lord Romney * apologised for presuming to rise in the House thus early after having so lately taken his seat among their Lordships, but having heard what had fallen from the Noble Lord who had just sat down, which, considered in a constitutional point of view, appeared to him to be a doctrine the most extraordinary that had ever been avowed and maintained, regard to his own character would not suffer him to give a silent vote on the occasion; and therefore he felt it indispensably necessary to trouble their Lordships with a few words on the subject. It had fallen to his lot, his Lordship said, to have been the person, nineteen years ago, to rise in the other House of Parliament, and move an amendment to the preamble of the Indemnity Bill then brought in, on the business of ministers having sent foreign troops to garrison Gibraltar and Port Mahon. At that time it was not even pretended,

* *Lord Romney* was the Honourable Charles Marsham, and sat in several Parliaments in the House of Commons (but not in the present) as Representative for the county of Kent. He has always been looked up to as one of the most independent Members, and most sincere friends to the constitution, in either House; and a better proof cannot be given of his having been so regarded, than his being considered as one of the Country Gentlemen, although the son of a Peer. His Lordship succeeded to his father's title on the death of the late Lord Romney, which recently happened.

that, to introduce and employ foreign troops in any part of the King's dominions, was not illegal and unconstitutional. It was admitted on all hands; and the only question was, how to frame and word the preamble of the Bill of Indemnity, so as not to throw a doubt upon a principle, respecting which there was no doubt entertained, or question made. The principle he had ever understood to be clear and indisputable; in that view he had ever been led to consider it, and in that view he should continue to regard it. With respect to the present case, under all its circumstances, he was not satisfied in his own mind that a Bill of Indemnity was necessary; at any rate he thought a time of war, and during a moment of great public difficulty, not the most fit time to entertain or pass a Bill of Indemnity. He begged pardon of their Lordships for having troubled them with his opinion; but the doctrine he had heard laid down by the Noble Lord was so contrary to every idea he had of the constitution, that he could not, as an honest man, and from regard to his own character, sit silent. At the same time, as he did not like to give a vote against a Bill of Indemnity, moved for on the ground of saving the constitution from encroachment, if the Noble Earl persisted in his motion, he would endeavour to get rid of it by moving the order of the day, or moving to adjourn, or by other means, most regular and consistent with the form of proceeding in that House.

Lord Grenville began with observing, that the question turned wholly on an abstract proposition; and he owned he saw no great use, nor indeed any great political wisdom, in agitating abstract propositions in Parliament. Feeling, therefore, as he did, he thought such discussions, generally speaking, were rather to be avoided, than desired, or unnecessarily brought forward; and for this opinion he had the authority of our ancestors, whose wisdom was not a little conspicuous in their adherence to that principle: And, indeed, there needed no other proof of the danger of departing from it, than a contemplation of the mischiefs that had resulted to the French, in consequence of their splitting upon that rock; which he conceived were in a great measure imputable to their having rested all their power on idle and useless attempts, in the first instance, to define the abstract principles of government. In the present instance, there was no occasion to refer to past precedents; but their Lordships ought to confine themselves to the particular case under consideration. If nothing new, nothing irregular had been done, no Bill of Indemnity could be required. The precise question was, whether the act of landing a small body of Hessian troops, destined on a
foreign

foreign service, which was retarded by accident, whose health required that they should be so landed, and of which landing notice had been given to Parliament as early as possible, was illegal? This was the accurate state of the question. To keep a standing army in the country, without the consent of Parliament during the time of peace, or to land foreign troops at any time without immediately acquainting Parliament, he was ready to admit was illegal; but that did not by any means imply that a case of necessity might not arise, in which his Majesty's ministers might feel it absolutely requisite to admit them; and this he conceived might be done without the smallest breach of the constitution. What was the fact in the present instance? A number of Hessians had been engaged for foreign service, and they were to rendezvous for that service at a certain place and at a certain time: They were at the place agreeable to the stipulation; but, from circumstances which it was impossible to foresee, the expedition, in which they were to be engaged, was obliged to be postponed; and, during this delay, it was found expedient to land the troops for the preservation of their health. This being done, the first opportunity was taken to inform Parliament of the fact: Not that he deemed such a step, under such circumstances, absolutely necessary, or that his Majesty's ministers had advised a stretch of the prerogative, in ordering them to be landed. He knew, and he was ready to admit, that the Crown could not keep up a standing army in this country without the consent of Parliament; and Parliament, as the grand council of the nation, had abundance of security against it, from the variety of checks in its power. These checks were of three descriptions, and each of them sufficiently powerful and efficacious to render it impossible for the Crown to keep up a standing army, or an army of any kind, without their consent. The checks were these, the supplying the money to pay an army, the enacting and investing the Crown with the power to discipline the army, and the enabling the Crown to provide the army with quarters. What then was to be apprehended from the admission of a few foreign troops, in a case of necessity, avowedly engaged for foreign service, and who could not possibly act here? There certainly could be no manner of danger; and therefore it appeared to his mind, his Lordship said, the more strange that an indemnification should be thought necessary for those whom no man could fairly charge with having done wrong; for the expediency had been avowedly waved by the Noble Earl who had brought the question forward with a degree of ability, in the applause and ad-

miration of which no one of their Lordships more sincerely joined than he did.

His Lordship shewed the danger that must necessarily result from not leaving the responsibility for such a measure as that under consideration with ministers. He declared he held himself responsible for his share of the measure, and so he was persuaded did the rest of his Majesty's servants. Let their Lordships recollect that, according to the spirit and wise maxims of the constitution, all the prerogatives of the King were to be exercised under the responsibility of his ministers, and that it was the province and duty of that House to watch over, to investigate, and to examine the exercise of each prerogative; and it was equally their right to censure, and to punish, when exercised without sound discretion; but they were not, he conceived, prepared to question and arraign the prerogative of the Crown itself. They would not presume abuse; they would not lay it down as a maxim, that where there was prerogative there must exist abuse of it. All prerogative was in itself inconsistent with liberty; for discretionary power lodged in the hands of any person, must be incompatible with the general right of a community living under equal laws, but it was an evil, which, on the ground of the general good, had ever been submitted to as a necessary evil. What then was the conduct of Parliament with respect to the prerogatives of the Crown? Not to presume that they were to be abused! For the very prerogative of mercy itself in that case would be liable to suspicion. It might be converted into the means of persecution. A man corruptly set on to violate the laws against the life or property of a person obnoxious to Government, might be grossly and unjustly pardoned: In such a case, an impeachment of ministers would be the consequence; Parliament would punish the abuse of the most shining and most glorious of all the prerogatives of the Crown, that of interposing mercy and granting pardon; but they would previously have inquired, and have furnished themselves with grounds for believing the abuse of it. To keep an army in England without its consent was contrary to law; but to introduce a body of troops merely on an emergency, and to communicate the same to Parliament, upon the earliest notice which ministers themselves received, was consistent with practice, and had ever been regarded as a sound exercise of the royal discretion. To keep an army in England, which required discipline, could only be done by act of Parliament, and they knew that the jealousy of Parliament made it necessary that the act should be annual. It was obvious that the exigency of the occasion might demand the in-

roduction

introduction of foreign troops, when Parliament could not be called on to give a previous sanction. Who would say that such an exigency might not exist during the interval between the recess of Parliament at the end of one session and the opening of the next? Let their Lordships reflect that ministers were under a double responsibility; they incurred a double danger, both by bringing troops into the country at an improper time, and by omitting to bring them when there should be real occasion. If the House should declare, by passing a Bill of Indemnity, that it was contrary to law so to introduce troops at all, how could they afterwards impeach ministers for omitting to do so in a moment of real and pressing necessity? It would therefore be more advantageous to the country, that the question should be left open, and ministers remain subject to the double danger, than that it should be decided either one way or the other. His Lordship said, he thought it right, upon a constitutional subject like the present, to deliver his frank opinion: He was ready to declare, then, that though these foreign troops were landed on an emergency, yet, in case of annoyance by an enemy, they might be employed with benefit to the kingdom; in which case, however, a fresh notice to Parliament must undoubtedly be given by the Crown. These, his Lordship said, were his ideas upon the subject, and he doubted not but he should have their Lordships' concurrence. Such had been the sentiments of their ancestors; and he flattered himself he need not use many words to convince the House that these were not times for their Lordships to apply new theories to the constitution.

The Earl of Lauderdale, after a very handsome compliment to the Earl of Albemarle on his eloquence and ability, and congratulating the country on the advantages they were likely to derive from so auspicious an opening of his political career, proceeded to state that certain doctrines which he had heard in another House, had a good deal alarmed him. He was glad to find, however, that the Noble Secretary had not ventured to go the same length, and avow the same unconstitutional principles. But, cautious as the Noble Secretary of State had been, he was proud to differ materially both from that Noble Lord and a Noble Earl (Lord Spencer) who had that night given the Noble Secretary his support. He considered the present hour to be proper and seasonable for the discussion of a question so constitutionally important as that before the House, as it was full time that their Lordships should be satisfied on a point so essential in its consequences. The message, he confessed, which brought intelligence of a body of Hessian troops being landed in this island, struck him with
curiosity

curiosity and alarm. He lamented that he had not been able to obtain from the Noble Secretary of State, on the day that the message was delivered from the Crown, the satisfaction which the Noble Secretary had not thought it unsafe to give that day; it was now acknowledged that the Hessian troops had come to be employed for foreign service, and it was owned that they might be employed to resist any attack that might be made here. The present was a case which in his mind demanded the interference of Parliament, and not merely from its own importance, but also from the declarations with which it was accompanied. A Noble Friend of his (Lord Romney) had expressed with becoming regard to that consistent love of the constitution which had so honourably marked and distinguished the uniform tenour of his life, his opinion of an expression that militated against his notions of law; he lamented that his Noble Friend did not see with him the necessity of going further, and ratifying by a vote on that day his sense of the law on the subject. For his part, the Earl said, he saw not any good reason why it should not become an abstract question, as other questions had (particularly in the case of the Regency), by which the public mind might be informed and satisfied. It was full time that it should, when a doctrine so dangerous to the constitution, as this doctrine of prerogative, was unreservedly preached in one House, and somewhat countenanced in another. In such a crisis, silence was in his mind criminal. The Noble Secretary of State had said, that no discussion on prerogative, at this period, ought to be brought forward. As little could he agree in that point. He had a right to examine and watch over the constitution of the country; and however ineffectual those endeavours might prove, impartial posterity, he had no doubt, would do them justice. Some future historian, in viewing and narrating the important events of this awful period, he hoped, would act impartially, and state and record the motives and the merits of a few public characters. The Noble Secretary of State, he observed, had trod with more than usual caution on the subject he had taken up. He sounded his way before he explored the depths, and seemed, from consciousness, almost to despair of what he aimed at, and wished to obtain. The doctrines promulgated that day, however, certainly demanded the measure proposed by the Noble Mover. He wished therefore that the health of the venerable Earl Camden would have permitted him to come down that day. [A cry of *Order! Order!*] The Earl went on to say, that had Lord Camden been present—

Lord

Lord Sydney called the Noble Earl to order, declaring it to be disorderly to mention the name of any Noble Peer, a Member of that House, in debate.

The Earl of Lauderdale resumed his argument, but again mentioned Lord Camden's name.

Lord Sydney again rose, and declared it was contrary to the standing order of the House, to mention any Noble Peer by name.

The Earl of Derby said, the standing order had better be read; the purport of it, he well knew, was, that it was disorderly to name any Peer present, but it was not out of order to mention his name in his absence.

The Earl of Lauderdale immediately said, that it was not wonderful that the bare sound of the name should be unpleasant to the Noble Viscount; and merely in regard to the Noble Viscount's feelings, he would spare him the repetition. That venerable Earl, to whom he had alluded, had said, that they wanted no lawyers from Westminster Hall to teach them the constitution on this point; it was engraven on every Englishman's heart. The saying was a wise one, and worthy the mouth of that venerable Peer who uttered it; he therefore could not but lament the Noble Earl's absence, as his authority on the present occasion could not but give great weight to the question, and to the arguments urged in support of it. The Earl admitted that it was the undoubted prerogative of the Crown to bring foreign troops into the kingdom, but he begged leave to observe, that it was Parliament alone who could authorise or enable the Crown to continue them. He contended, that, on a liberal interpretation of the Bill of Rights, there was no difference to be inferred between the landing of foreign troops either in peace or war. Such was the generally admitted inference to be drawn from the Bill of Rights, according to a liberal construction of its spirit and meaning. The Earl adverted to the authorities of the Bill of Rights, the Act of Settlement, and the various precedents, and shewed, that, according to the letter of each message that had been stated from the King, down to the present instance, the communication had been made in sufficient time to enable Parliament to take measures against the landing of any foreign troops about to be introduced into this kingdom, if they thought it unsafe or improper. The thing was done without affording Parliament time to take any proceeding calculated to guard against the danger of the precedent. It was said the Crown could introduce troops without their consent in the present instance, and that no danger could arise to the constitution, because such troops could neither be paid, disciplined,

nor sent to quarters, without the authority of Parliament. Was it then to be gravely argued, that the Crown possessed the curious prerogative of landing at pleasure any number of armed banditti? for such must all troops, not subject to discipline, be deemed and considered. The King could not keep native troops without the mutiny law; but according to this doctrine he could keep foreign troops in the kingdom; and the violation of the most sacred rights, with respect to the regulation of the standing army, was necessary to the existence of this prerogative. He might land troops without previous communication; without assent; he might do this to any amount; but when landed they could not be employed, but with the sanction of Parliament—and Parliament were to see the introduction of foreign troops with perfect calmness and tranquillity, because afterwards they might, in right of their constitutional authority, dispute the use to which they were to be put. The Earl said, he did not highly approve of arguing a constitutional point with 30,000 armed logicians. He was however glad that the question had been discussed. He was also glad that it would go forth into the world, and that men would see that it had not been argued in that House with the same lofty tone with which it had been discussed in another place.

Lord Hawkebury agreed with his Noble Friend, the Noble Secretary of State, that an abstract question had been brought under discussion; such discussions were, generally speaking, unwise, and rarely afforded any useful or important advantage. With most of the doctrines laid down by his Noble Friend he also agreed, as his Noble Friend had clearly kept his argument conformable to the message from the Crown, and the Address of that House in answer to it. With regard to the illegality of landing foreign troops in the kingdom without the consent of Parliament, there could not be a question upon the subject; but undoubtedly the measure, in this case, as in every other, ought to be considered with a particular attention to the peculiar circumstances of it. With regard to the instance in question, no Noble Lord imputed blame to ministers, or raised a doubt as to its expediency or necessity. With regard to the right of the Crown in this particular, the various acts of the Legislature, and the universally received principles of common law, were sufficiently clear upon it, as well as upon every other part of the constitution, without calling upon Parliament upon every occasion to ratify them. His Lordship took notice of most of the points which had been mentioned by the last Noble Lord, and declared, that, in his opinion, not one of them contained any argument to induce their Lordships

to

to vote for the bill in question. He considered that House as the grand stationary council, whose vigilance was paramount, and over all. For his part, he had already said, and he repeated it, that he was as ready as any Noble Lord could be, to declare, that the employing foreign troops in this country was illegal; but then the present case did not amount to that, for these troops were actually engaged for foreign service, but had been landed through the mere necessity of preserving their health; and this, a very little investigation would prove to their Lordships, was no less politic than humane.

As to the precedent of the year 1641, upon which so much stress had been laid, he thought it by no means a good precedent, because at that time the Parliament were on the eve of engaging in a civil war, which immediately afterwards took place; and looking to resistance, it was clearly of great moment to them to prevent Charles I. from landing any foreign troops in this island. With respect to the Bill of Rights, if it had been the intention of the great characters concerned in it, they certainly would have provided for a case like the present, could they have foreseen that any such case would arise; for it would be worth their Lordships' while to recollect, that the Bill of Rights was drawn by men of the highest character then living; among those who had a principal hand in it, was Mr. Somers, afterwards Lord Somers, a great statesman, a great lawyer, and a great writer. As to the subsequent instances, he passed briefly over them, and shewed the tardiness with which Parliament had entered into any consideration upon the subject of foreign troops; that the legality or illegality had not been even the subject of their examination; and that the subordinate considerations of their subsidy and destination had alone been in their view. He contended very warmly, that this was one of the prerogatives of the Crown which should be trusted to the discretion of the executive power, which was responsible for the exercise of it; and that its expedience constituted its loyalty, and justified it completely.

Ministers, as far as he understood, did not feel the smallest apprehension from what they had done, consequently did not wish for an indemnification; and, as he thought it was totally unnecessary, he should give the Noble Earl's motion his negative.

Earl Stanhope said, he was happy to find that the extraordinary doctrines he had heard in another place, were not avowed in that House. His Noble relation, the Noble Secretary of State, had been more wise and guarded in his expressions, than other ministers had elsewhere proved themselves. It had been stated in another House, by persons high in official situation, in the

broadest and most unequivocal manner, that the King, by his prerogative, had a right not only to land as many armed foreigners in this country, either in time of peace or war, as he pleased, without the sanction of Parliament, without any previous notice to Parliament, or even against the avowed sense of Parliament, but to march them wherever he thought proper. All he would say upon this point was, that he was happy to have an opportunity of repeating what he had said on a former day, that if ever a matter of a treasonable nature was attempted by the minister, or any minister of this country (and such he considered the doctrine that had been stated, according to Blackstone's definition of treason), the people would be justified in resisting it by force. [His Lordship read the passage in Blackstone's Commentaries which supported his assertion.] He could not, the Earl said, help differing very widely from a Noble Lord (Auckland), who had argued that it was legal for the King to introduce a foreign army into this country; he was on the point of rising, to move to have the Noble Lord's words taken down, when, before he could do so, finding that the bare mention of such an opinion was not relished by the House, he turned suddenly round his own point, and got out of the scrape, by arguing negatively, that it was not declared by any statute, or known *dictum* of law, to be illegal. The Noble Secretary of State did not go so far, but he seemed to think that the legality of keeping a foreign army in this country depended upon the manner in which it was to be employed; because, said that Noble Lord, it would be illegal to employ those troops without a second communication from the King to Parliament, stating in what manner they were to be employed. The Earl said, it was curious to observe the shades of difference between the three Noble Lords, who had owned the illegality of landing troops in the Isle of Wight, with distinct and separate reservations. The first of the three Lords soared almost to the topmost round of the Tory doctrine of prerogative maintained in another House of Parliament. His Noble relation, the Noble Secretary of State, had descended to a lower step, and came nearer to their point; but the third Noble Lord (Lord Hawkesbury) had dropped down almost to their level. That he might not be suspected of doing injustice to the Noble Lords, he would read to them their own words, which he had taken down at the time, and which he did accordingly.

The *onus probandi*, however, did not rest with him, and those Noble Lords who argued with him, to point out the law which prohibits; on the contrary, it is with the supporters of the prerogative to shew the law which allows and justifies, such

an exercise of the prerogative. If there be such a law, it must be either common law or statute law. The Earl stated to the House, on the authority of Lord Chief Justice Hale, what constituted the distinction between the common law and the statute law. The former consisted of all that part of the law which was received, recognised, and established before the time of the memory of man; and the other, the statute law, consisted of what had passed within the time of the memory of man. Judge Hale had stated the latter period to commence with the first year of Richard I. who began his reign on the 6th of July 1189; and all, therefore, recognised before that time, was deemed to have been received and established antecedent to that period, and was commonly termed the common law. The date he begged their Lordships to keep in mind, since all the laws made prior thereto were thrown among the *lex non scripta*, as past man's memory, and made part of the common law. Blackstone, his Lordship observed, had somewhat narrowed our researches after *standing armies*; for he expressly tells us, in vol. i. p. 414. that Charles VII. of France was the first prince who introduced and kept on foot standing armies in Europe; this was in the year 1445. Nothing appeared upon the statutes of any such right; and the common law was equally silent upon the subject. It was however a clear proof that standing armies were not in practice before that period, and consequently they were not recognised by, or known to, what was termed the common law, having been first introduced centuries after the reign of Richard the First; and it was to be observed, that no statute had passed since on the subject, down to the day of the first Mutiny act.

In examining precedents, however, one appeared upon the Journals, vol. xxix. which legalized, in the year 1759, the billeting of foreign troops. If it was legal to billet, it was legal to *bring* them here; for though they might be brought, and not billeted, they must, before they could be billeted, be *brought* over. There was no justification whatever in a precedent, which, if it had been absurd and unconstitutional, was by no means to pledge us to perpetual error.

After a variety of cursory observations the Earl proceeded to the precedent of 1775, when foreign troops had been landed to garrison Gibraltar and Port Mahon; and it had been found indispensably necessary to come to Parliament to obtain its sanction, and pass a Bill for quartering these troops. This certainly proved that, without the sanction of Parliament, they could not be kept in the kingdom; for by passing a Bill to quarter them, Parliament gave a sanction to bringing them.

His Lordship said, he had heard the argument of a Noble Earl (Spencer) that day with great attention and equal surprise, because he had always hitherto thought that Noble Earl a steady friend to the Constitution. With surprise he had heard the Noble Earl desire the House to confine themselves to precedents to be found since the Revolution, and not to look farther for the constitution of this country, emphatically declaring, that all researches before that period were fitter for discussion by a Society of Antiquarians than in a Chamber of Parliament at this day. In this, the Earl said he differed widely from the Noble Earl, since he could not but recollect that not an iota of our constitution was altered at the time of the Revolution, but merely recognised, declared, and established. Had we not the Trial by Jury, the Liberty of the Press, Magna Charta and the Habeas Corpus, before the Revolution? And here, the Earl said, he could not help recurring to the authority and words of a Noble Person, that we gained nothing by the Revolution, because he considered the Bill of Rights only as a declaratory act. Earl Stanhope next animadverted upon Lord Hawkesbury's idea of Parliament being a standing Council.—“Let me ask your Lordships (said the Earl) if Parliament shall happen to be prorogued, where this standing Council is to be found? It will be too late to call upon this check upon pay, discipline, and quartering of troops, so much boasted of by my Noble Relation, when 30,000 Russians, 30,000 Prussians perhaps, and 30,000 Hessians, are landed, for according to this doctrine it is possible to suppose that they may be landed in different parts of the kingdom. With regard to precedents, the Earl said he considered them as nothing, particularly when argued as they had been that night. On the ground of precedent, among other extraordinary arguments, it had been contended, that there was no necessity for a Bill of Indemnity in the present instance, because it was to be found by reference to precedent that illegal measures had been adopted in many instances, without any notice having been taken of them by Parliament. Upon this idea his Lordship observed, ministers might do just as they pleased, for he believed there was nothing so bad, so illegal, or so enormous, but there might be found a precedent for a similar crime, without its having been noticed by Parliament. Earl Stanhope concluded, and declared, he should give his hearty assent to the motion, and thanks to the Noble Earl for bringing it forward. He was for the Bill of Indemnity, though he might perhaps agree that there was nothing so criminal in the measure on the part of ministers as he could deem himself entitled to call punishable.

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Earl Spencer explained. He was, he owned, obliged to the Noble Earl for having hitherto done him the honour to consider him as a friend to the constitution, and he trusted he should continue to be entitled to be so considered. He declared he had been very far from depreciating the British constitution prior to the Revolution. The Noble Lord mistook him totally, if he imagined that he had said any thing like it. His love for it had taught him to look there, and from that happy period downward to the present day, for a declaration of our rights; so far from endeavouring to cast any slur on the precedents to be found antecedent to the Revolution, he had taken shame to himself for not having searched for precedents to be found before the Revolution.

The Earl of Caernarvon said, he would not take up much of their Lordships' time in a debate so extremely uninteresting, though on a subject in itself of great national importance. "Whether the King can legally employ foreign troops in Great Britain without consent of Parliament in time of war, is undoubtedly a question of great magnitude, upon which, however, the Noble Mover, and those who have supported him, have not been able, from any existing circumstance, to raise the least public interest, or alarm the jealousy of the country against any supposed extension of prerogative. I have, however, no desire to conceal my private sentiment on the subject, and I do not think any inquiry is likely to shake in me the opinion, 'That the King has no right at any time, without consent of Parliament, to employ foreign troops in Great Britain :'. I seek no precedents in support of this opinion, nor should I admit any in support of the contrary; I think it a fundamental principle, without which there is no liberty in this country, and which no precedents can overturn. But though I entertain these sentiments as a private opinion, I am not disposed, without better reasons than I have heard, to give it at this moment a Parliamentary deliberation and decision; for I presume it will not be asserted, that whenever any Noble Lord shall propose to this House a question of supposed prerogative as a discussion of curiosity and instruction, that it is the duty of Parliament to decide upon it without delay; on the contrary, I think it becomes the wisdom of Parliament to avoid all such questions, if the circumstances of the moment do not render it inevitable: I approve at no time Parliamentary discussions of abstract propositions; and I disapprove still more, a step which imposes on the King's ministers, a necessity immediately to claim, or for ever to renounce, the exercise of any supposed prerogative, without the existence of a case alarming to the jealousy of Parliament by the claim or exercise. Let it be admitted that it is

incontestably the law of the land, that without the consent of Parliament the King cannot employ foreign troops in Great Britain; where is the existing case to which this law can apply? and if there is no case existing to which such law could apply, there can be none which calls upon the jealousy of Parliament to declare the law; if the law be distinctly as admitted, then the breach of it would be an impeachable offence.

"Hessian troops in the pay of Great Britain, under treaties communicated to both Houses, are, by the King, in time of war, destined to serve on the coast of France; suppose, for instance sake, that one half of them are wrecked and saved on the coast of Sussex; the other half being off the Isle of Wight in transports, after being long close stowed, are landed for the preservation of their health; common humanity, common prudence, and political economy (as the loss of men must be compensated by Great Britain), dictate the steps necessary to be taken. The King informs Parliament, when it meets, of the event (which is all he can do), and receives their approbation and thanks, which is the most unequivocal consent they can give; suppose, however, the Commons of Great Britain, in a future Parliament, should, upon some ingenious distinction between previous consent and subsequent, impeach the minister for this supposed extension of the prerogative, it must be in terms, if not exactly these, conveying this in substance: 'That the King's ministers, with intention to subvert the constitution, and to set up the prerogative above law, had wickedly preserved the lives of one division of the Hessian troops wrecked on the coast of Sussex, without previous consent of Parliament, by suffering them to land on that coast, contrary to the intent and meaning of the law in that case provided; and that they had, with the intent aforesaid, preserved the health of another division of the said foreign troops, by permitting them to land on the Isle of Wight; the said ministers pretending that they had not employed, nor intended to employ, such troops in Great Britain, and asserting that the subsequent approbation of Parliament, when the previous could not be obtained, implied all the essential qualities of its consent; and that it could not be an offence of any nature to do that, which it would have been a high offence to have omitted.' Are your Lordships ready to say, that you would find a minister, under such a charge, guilty of any breach of the law or constitution of the country? If not, it is impossible to support the assertion, that the present case requires the intervention of Parliament to protect the constitution: And what is the mode proposed to effect this? to give ministers an indemnity; against what? against a certain acquittal,

acquittal, if any person should be so absurd as to institute such a charge. But Noble Lords say, they admit the conduct of ministers to be perfectly right, and even deserving praise; yet the act is illegal, and in direct violation of the law of the land, and it is necessary that it should be declared to be so; the Bill of Indemnity is only meant as a pretence for such a declaration; the declaration, however, cannot but be in substance, 'That the act lately committed by the King's minister is highly illegal, and in direct violation of the law of the land, and very fit and proper to be repeated in all similar cases.' Such must be the declaration, and would sound more like a newspaper cross-reading, than a grave and serious proceeding in Parliament. I ground my objection to the motion on this, that the present emergency does not call for this inquiry into the limits and bounds of the prerogative. Every case must stand and fall upon its own merits, and I am never very earnest to see Bills of Indemnity pressed upon ministers in the plenitude of their power and influence, especially when they do not claim of the justice of Parliament protection from future enemies, when they desire no shield but their own innocence, and wave an indemnity, offered only in order to graft upon it a declaration that they had violated the law."

The Earl of Guildford declared, that he should not feel it necessary to trouble their Lordships long, as several of the arguments he meant to have urged, had been forestalled by the Noble Lords who spoke before him, and particularly by the Noble Earl who spoke last. The Earl declared, that he knew of no law, no fundamental principle of the British constitution, which could warrant the present proceeding of his Majesty's ministers. Certain it was, that the conduct of our ancestors had been widely different. Some Noble Lords, too fond of precedents, seemed to argue that every deviation which had been overlooked by Parliament, formed a precedent, and was as much in their favour as if there had been an existing law on their side. One Noble Lord, who had seemed the most inclined to consider the landing of the Hessians as not illegal, had asked, where was the Parliamentary and constitutional *dictum*, that pronounced upon the illegality of landing foreign troops in the kingdom in time of war, without the consent of Parliament? That Noble Lord had heard what had fallen from the Noble Secretary of State, and the Noble Lord near him (Lord Hawkesbury), on that important point; and was the Noble Lord prepared to say that the arguments and assertions of those Noble Lords were not constitutional *dicta*? The Earl said, the illegality of landing foreign troops in the kingdom
either

either in time of war or peace appeared to him to be so clear, that he was surpris'd there should have been in any man's mind a doubt upon the subject. Let Noble Lords for a moment consider the danger of adopting the other sort of argument, let them recollect to what an extent it would go under such a construction of the prerogative. In the latter part of Queen Anne's reign, if ministers had meant what had been imputed to them, and had really intended to overturn the government and destroy the constitution, while Louis XIV. of France was in the plenitude of his power, that King might have sent over a French army to any extent and number, and by that means have seated James the II'd on the throne of his ancestors, in spite of every possible opposition, and thus have prevented Great Britain from enjoying the blessings which we so long have enjoyed, and he trusted long should enjoy under the mild government of the House of Brunswick. Some Noble Lords had stated a Bill of Indemnity to be the same as a Bill of Impeachment: To his mind there was a wide difference between the two things. A Bill of Impeachment was the proper mode of proceeding against ministers, in order to bring them to punishment when there appeared to be sufficient grounds for charging them with having acted criminally, or with a criminal intention. A Bill of Indemnity was the proper means of saving ministers harmless, where, either owing to motives of necessity or of expediency, they had acted in a manner contrary to law and contrary to the constitution. In the present instance, no one of their Lordships was farther from meaning to impute blame or criminal intention to his Majesty's ministers; and therefore it was, that, instead of talking of a Bill of Impeachment, he concurred with the Noble Earl who brought the motion forward in so able a manner, and with other Noble Lords, in advising a Bill of Indemnity. On what ground a Bill of Indemnity was not accepted when offered, he was at a loss to imagine. It was pretty generally admitted, that it was illegal and unconstitutional to land the Hessian troops without consent of Parliament. By what milder mode could the encroachment on the law and the constitution be set to rights than by a Bill of Indemnity? With regard to what had been said about the Message from the Throne being sufficient for the executive government to act upon, he would observe, in the words of Lord Coke, "that the King's message was gracious: But what was the law of the land?" Let it be remembered that the King could only speak by record. A Message from the Crown had not even the authority of a Resolution of either House of Parliament. In fact the King could only exercise the royal authority in Parliament

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liament effectually when he spoke by record; and therefore the only constitutional manifestation of the royal will in the present case would be when his Majesty gave his assent to the Bill of Indemnity. For these reasons, the Earl said, he should vote for the motion.

The Duke of Portland said, he would take up but little of their Lordships' time, as he wished only to say a very few words, but he was anxious to prove his political conduct to be consistent, and therefore he could not consent to give a silent vote. He had no scruple to declare that his uniform opinion had been, that to keep foreign troops in the kingdom without the consent of Parliament was illegal, and contrary to the principles of the constitution. In that opinion he had ever lived, and he doubted not he should die in it; but his Grace said, he did not see how that bore upon the present question, or proved the necessity for a Bill of Indemnity in the case of landing the Hessians in the Isle of Wight. He gave the Noble Earl credit for the constitutional motive that had induced him to bring the question forward, and assured the Noble Earl, it had afforded him very singular satisfaction to have witnessed the abilities he had that day so eminently displayed in his speech, and which he was happy to find had made so sensible an impression on the House in general. He hoped he might be allowed to say this, as he had not only enjoyed the pleasure of the Noble Lord's acquaintance from his earliest youth, but had been intimate with his Noble Father, for whose memory he entertained a sincere respect. To return however to the subject in debate, a material circumstance respecting the landing of the Hessians had struck him, which his Grace declared he was not a little surprised to find had escaped the notice of every other Noble Lord, who had spoken before him. It was, that stress in argument should be laid on the Hessians having been landed without the consent or knowledge of Parliament, when by the treaties with the Landgrave of Hesse, which lay upon the Table, it was expressly stipulated, what the pay of the Hessians should be, in case they should be brought into these kingdoms. Those treaties, he observed, had been upon the Table more than a twelvemonth, which was a pretty long notice of the possibility of such an event's taking place as their being landed in this country; nor was there any novelty in the stipulation to which he alluded, as the same stipulation was to be found in most of the treaties with the Landgrave of Hesse. Add to this, his Majesty's message was specific and particular in its mention of the matter; and as the House had voted an address upon that message, he really did not consider the case to be such as required a Bill of Indemnity, and there-

fore he should feel himself obliged to vote against the motion.

The Earl of Carlisle rose to speak a few words to one or two particular points. He owned, he saw no necessity for bringing an abstract proposition under discussion, and he wished it had not been introduced, because in his mind the question, whether the landing of the Hessian troops under the peculiar circumstances of the case, called for an Indemnity Bill or not, might just as well have been debated and decided, without entering upon any abstruse constitutional point. For his part, if he were called upon to declare his opinion, whether the King had authority to land foreign troops in the kingdom without the consent of Parliament, he should say without hesitation, as the Noble Duke who had just sat down had done before him, that he had no doubt the King had no such authority, and that the landing of such troops in that manner was an encroachment on the constitution; but he saw no reason whatever to blend that abstract question with the discussion then before the House. The sole question for consideration was, whether a Bill of Indemnity was necessary or not. It had been admitted on all hands, that his Majesty's ministers had not acted in the affair of landing the Hessians *malo animo*; no criminal intention had been imputed to them. To what end then pass a Bill of Indemnity? He conceived a Bill of Indemnity to be only necessary, where ministers had done what was wrong, and then such a Bill was absolutely necessary to cure the error. That was not pretended to have been the case at present. Another reason why he should be against the question was, he did not like the practice of frequently passing Bills of Indemnity, because it took from their importance and weakened their effect. The subject under discussion reminded him of another case which occurred some years back, when that venerable Peer, the Lord President of the Council (a character always sure to be mentioned with every possible respect and attention), took upon him to shut up the ports for ten days, and prevented the exportation of corn, in order to avert a famine, of which great and serious apprehensions were entertained, and which might possibly have happened, had not the Noble Earl in question taken the step he did. On that occasion a Bill of Indemnity was proposed, but the Noble Earl rejected the offer, conscious that the exigency of the case was sufficient for his justification. Lord Carlisle made a few observations on what he had stated, and concluded with declaring that he should vote against the motion.

The Marquis of Lansdown said, that when he came down to the House, he did not know in what manner the question was

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to be taken up; not from any neglect of the Noble Earl, who brought it forward with so much honour to himself, and credit to his friends, but only from his own want of attendance, arising from confinement at home, through indisposition, and engagements elsewhere on different avocations. The Marquis complimented the Noble Earl on having made his first appearance in that House in so distinguished a manner, declaring, that he never had heard a young speaker state a matter of equal importance so well. He had shewn most clearly the necessity of that discussion, for which the House and the country owed him their particular thanks. He spoke also in very handsome terms of the arguments advanced by the Noble Earl who had risen second in the debate (Earl Spencer), and declared, that he had been so impressed with the Noble Earl's arguments, that he would have voted with him against the Bill, had he been able to follow his own inclinations; but he confessed, though at first against the motion, upon the principle on which a private man would decline producing the title-deeds of his estate, unless obliged to do it, he had been satisfied by hearing all the arguments, that the Noble Earl had strong grounds for his motion. The Marquis considered the question, not as an abstract question, not as a theoretical, not as a speculative, not as a metaphysical question, not as a doubtful question, nor as a party question by any means, but as a constitutional question of infinite importance, on which all their liberties depended immediately, and the existence of the first principles of the constitution itself. He disdained to put the question on narrow ground; it was neither more nor less than he had described; and he conceived it to be a clear, practical, and fundamental principle, standing upon the same ground with the right of juries, or any other of our fundamental rights, and equally essential to the preservation of public liberty; inasmuch that the very question of it was a subject of just alarm. An attempt had been made to avoid such discussions on the ground of their being unnecessary; because to agitate doubts upon a subject where there really were none, some Noble Lords thought was dangerous; he thought it no more dangerous than (as he had just stated) if any one of their Lordships was to consult a lawyer about the title of his estate, when it was not challenged; and as to being unnecessary, that day's debate was a complete answer.

His Noble Friend had gone upon the best grounds; and taking all the circumstances, argued as they had been, what could be so proper a way of bringing the question before the House, and setting the point at rest, as by moving for a Bill of Indemnity? the best, the most inoffensive, the most harm-

less, the most mild and proper it certainly was. As to precedents to shew him that the introduction of foreign troops was illegal, he had not looked to any; it was plain to common sense that our forefathers, when settling those important rights of the people with so much ability, so much integrity, and with such tenaciousness, could not have been ignorant, that, if this had been neglected, all their other labours would not have been of the smallest avail. The reason why he had not looked into precedents was, because a point so interwoven with the principle of every free government, and with that of England in particular (as might be proved from the history of the most *ancient* times), and so directly opposed to the times in which we live, must stand its ground, independent of all precedent. But the Marquis said, if there were precedents favouring the introduction into this country of foreign troops, it would only prove the necessity of another *declaratory* law, like the *Bill of Rights*.

The Bill of Rights had been truly stated to be a declaratory law; but it was wisely confined, to remedy the bad precedents which are there condemned; and, among others, the keeping a standing army of *natives*, without the consent of Parliament, as had been done by James II. Does any one think that an army of *foreigners* would not have been condemned, *à fortiori*, if that Prince had attempted it, or if the Convention of that day had apprehended it? Or can it be argued, that the declaratory principle, which refers to the *lesser* evil, does not of course exclude the *greater*?

In point of fact, however, the Marquis said, the principle had been declared in the most pointed terms in 1641; from which time it had never been questioned, and much less transgressed; and therefore it was totally needless for the Bill of Rights to repeat it. In that period, of 1641, some of the ablest men perhaps which this country ever bred, were animated with a real love of the constitution, and governed by wise and sound principles; in which if they had continued, and the King on his part had not attempted to carry things with so high a hand, every one agreed that nothing but happiness could have ensued to King, Parliament, and people; but unhappily, confidence was in two or three years afterwards lost, and confusion followed.

The law, however, stood under this revolution for nearly one hundred years, till 173; since which time, the whole stream of precedents which had been quoted, recognise the illegality of the practice in question, till 1775, a period too much resembling the present, when the same principles were brought forward. They were soon, however, so effectually

scouted,

scouted, that in 1782, when the question occurred again, previous application was made to Parliament, and a proper precedent established. The Marquis said that he was happy to have shared the credit which belonged to so correct a measure. It rested with others to explain why it was not exactly followed in 1784: Having had nothing to do in that concern, it was for others to share it among them.

With regard to the necessity or number of the troops, the Marquis said, he thought it of no manner of consequence; for, if the point was wanted to be carried, a pretence might easily be framed for the first number; and if ministers could legally bring in fifty, they might soon find the way to augment that fifty to a thousand, and so on to any number whatever. The Noble Secretary of State had said, that Parliament had its security in the various checks constitutionally vested in them, such as the not voting the supplies for them, and not passing bills to provide for their discipline or their quarters: Before much stress was laid upon this assertion, he should wish the Noble Lord would state how long, in his opinion, if thirty thousand Russians, thirty thousand Hessians, and thirty thousand Prussians, all armed, were landed in this country, Parliament would think it prudent to withhold such supplies as might be necessary for their support, or any other measure that they should demand? The Noble Lord had also said, that if any attack was made on this country, these Hessians might possibly be employed in our defence, though, he admitted, not without an application to Parliament, by another message from the Crown, for that purpose; he believed the Noble Lord, however, would not venture to make such an unconstitutional proposition. If there was now, or should be at any future time, an intention to invade Great Britain, it was the duty of ministers to provide in time against the consequences; they had abundance of means in their power; the whole kingdom was full of internal means of defence, and might be said to be an almost inexhaustible resource; at any rate it would be highly censurable to employ a single foreigner for our internal defence, especially while we had British troops fighting on the continent. On the first appearance of such an intention, they ought to be sent for home; and not by exciting the appearance of jealousy of those whose duty and inclination would be to preserve their country, trust our defence to those who had no interest whatever in our preservation. He was confident the people of this country might safely be trusted to undertake their own defence; but whether that was the case in another kingdom, subject to the British Crown, he thought it was well worth the minister's while to attend to; certainly the two islands

islands were very differently circumstanced. He touched this topic slightly, because he was ready to admit that it was a delicate point, and he only meant to give a hint. For his own part he felt no apprehension of any sort respecting the safety of the country to which he had alluded.

With respect to precedents, the Marquis said, he did not put implicit confidence in them, because they were the mere transactions of Parliament; and he believed every man, who had paid any attention to the subject, had been astonished at the absurdities which had met Parliamentary sanction. A striking instance of this was the seven years war, previous to the peace of Aix-la-Chapelle, which cost this country seventy-eight millions of money: And he was old enough to remember that both Houses of Parliament were unanimous in their sentiments and votes during the war; though, after the peace, they were as unanimous in reprobating the system upon which it had proceeded.

It was wonderful, upon examining the Journals, to see what violations of the constitution had escaped the notice of Parliament. The fact was most undeniable. Parliament had overlooked a great deal too much; but God forbid that their having committed so fatal an error in various striking instances, should be made a precedent why they are to do so still; and persist in their negligence and inattention, when occasions present themselves that call for the utmost vigilance and the utmost caution.

By the turn of the present debate, it would seem that ministers, finding, as in 1775, that Parliament and the Public were too much awake to give way, were disposed to retract pretty much in the same manner. If they would be content, indeed, to leave it where a Noble Lord (Earl Spencer) had placed it, the majority of their Lordships might think it safe.

But not one of the Noble Lords on the other side, at the same time that he gave way, did so without some reservation, or attempt at reservation; which plainly proved that they acted from necessity, and not from conviction, and cannot suffer the wound to be probed and cleansed to the bottom.

One Noble Lord says, that he has not had time to make up his mind upon so great a question; and that it is neither legal nor illegal abstractedly, but depends upon the practice. Another Noble Lord says, that it is a question which should never be decided. The Noble Secretary of State declares, in the *strongest* terms, that it is illegal to *keep* foreign troops; but adds, in gentler terms, that he is *disposed* to believe it legal to *introduce* them till Parliament meets, who should be informed immediately; and he is likewise *disposed* to think it legal to

employ them, in case the kingdom was in such a situation as that in which it was last year, or in case an invasion was attempted, while they happened to be assembled on the coast for offensive operations.

As to the dangers of last year, the Marquis observed, they remained to be proved, still resting on the word of ministers, who had not made good their assertions in a single instance. But whatever might be the dangers from without or from within, it was the duty of ministers to foresee such dangers; and if foreseen in due time, there could not be a doubt that this kingdom at least possesses the means to provide against both, without being indebted either to allies or to foreign mercenaries.

As to mercenaries: The distinction between keeping and introducing such (which the Noble Lord was disposed to believe), cannot, said the Marquis, hold water a single moment. But the dangers of mercenaries, the bad economy of employing them, the disgrace, and the little necessity there can be for having recourse to them; all these points cannot be more forcibly stated, than they are by an important Noble colleague of the actual minister's, then present. [The Marquis of Lansdown here evidently alluded to Lord Hawkesbury.] It would be plagiarism to repeat in the debate the passages in point, in the Noble Lord's pamphlet on "The Establishment of a National and Constitutional Force in England," lately reprinted; but they well merited the deepest attention*.

The

* The following are supposed to be some, among the various passages in this very able and truly constitutional work, to which the Marquis appeared to allude, and which not only refer to the subject of *foreign mercenaries*, but to other topics touched upon in the course of the debate.

"The expence of foreign mercenaries would alone be a sufficient objection to them, which is greater in every particular than the charge of a standing army of native soldiers; for besides their subsistence, which they receive at the same rate as our national troops, we pay for them subsidy-money,—levy-money,—transporting-money,—recruiting-money; every one of which articles are carried to a vast height; and for some of them we pay double what they cost the Prince who supplies them. But the more material arguments against them is, that they are more dangerous even than a standing army can be to our constitution. I shall here speak with caution; for if I was to urge all the objections which *might* be brought against troops of this sort, especially at a time when we are under the unhappy necessity of employing them, I may appear, perhaps (what I am sure is not my intention), desirous of inflaming. My countrymen may form some idea of their danger, from one or two instances

The Marquis said, that doctrines had been brought forward in the debate, which went much beyond what the precise subject

instances in their own history. Troops of this sort have always been unuseful or dangerous to whoever employs them. Their conduct at first has generally been peaceable and ensnaring—at last seditious and destructive; and those states that have carried the points which they intended by their assistance, have usually, in the event, been enslaved by them. Machiavelli speaks fully on this point. “Mercenaries,” he says, “are useless and dangerous, and a government founded on an army of such, will have no stability or security.” And afterwards he assigns the reason, namely, “that they have no attachments or motives to hold them together but their pay, which is insufficient to inspire them with any desire of dying in the service of their employers.” And after having produced a great number of examples out of the history of the Italian states to prove this, he concludes, “that it has always been the opinion given by wise men, that nothing is so infirm and unstable as the reputation of a power which is not founded upon its own force.” There is also a farther reason, which Machiavelli was not aware of, that particularly disqualifies a free people for any army of this nature;—the unreasonable jealousies which such a nation will contract concerning them, and the ill-treatment they will in consequence thereof, perhaps, shew to them, may provoke the most regular and best disciplined troops to do that, through resentment, which through inclination they never intended. Never surely did troops behave themselves with more exact discipline than those which *our Legislature* has thought proper to *invite at present* to our assistance [1756]; and yet I would ask the good-natured part of my countrymen, whether, on this occasion, their own ardent and laudable love of liberty, through a mistake in the application of it, has not trespassed a little on their humanity? And if all the above arguments were insufficient, it is certainly beneath the dignity of a great and independent nation to rely upon those for its defence whom they are not sure they can always obtain when they want them, or even keep when their service is most required. * * * *

“A militia, consisting of upwards of 60,000 men, will cost, one year with another, under 160,000*l.* and will put the nation to no further charge, but only during the time of an actual invasion:—A regular standing force, of the same number, will exceed two millions a year—8000 Hessians, with all the concomitant expences, for this summer’s service only, will cost near 800,000*l.* and the whole of the expence of the land forces for this year (though we shall have acted every where on the defensive) will probably exceed three millions; and though the establishment of this year will not be equal to the number proposed by a militia by several thousands, it will surpass it in expence by almost twenty times the sum. I calculate only in the gross, for my argument does not require exactness. * * * *

“No

ject called for ; and so comprehensively dangerous were they, that they required to be reprobated in the most distinct manner :

" No country ever made, in a few years, so great a progress in trade as the United Provinces. Their shipping was at one time computed to be more than what belonged to all the rest of Europe put together ; and yet their wealth and commerce increased in this prodigious manner while they were engaged in a war of fifty years continuance in the heart of their own country ; while most of their trading towns were fortresses garrisoned by burghers, and while the natives of this Republic, from eighteen years of age to sixty, were obliged, by the union of Utrecht, to be armed and trained ; but since this first established militia has been neglected ; since they trusted their defence to foreign mercenaries ; and since of late they have hardly been defended at all, their commerce has been gradually on the decline. * * *

" Could the arms of Philip, conducted by *the genius* of the Prince of Parma, ever penetrate far into *her* country ? and did not the sieges of Harlaem, Alcmäär, and Leyden, when they were garrisoned only by their own burghers, break the spirit of the Spanish veterans ? and yet this very country was over-run, and most of her towns taken in the space of a month, in the year 1672, when the defence thereof was entrusted to 25,000 mercenaries. * * *

" It is by means of such an institution as this, that the little country of Switzerland is able to call together fourscore thousand brave men at all times for its defence ; and so small is the charge of maintaining them, that although the people of this republic are less loaded with taxes than those of any part of the world beside, yet they are able to save out of their common revenue a considerable sum of money yearly, which they keep in their treasuries against any emergent occasion ; and the surprising acts of valour which this militia has performed, have induced an ingenious writer to draw a parallel between the military achievements of this little collection of Cantons, and those of the free states of Greece. * * *

" The first and principal objection that has been made to this bill is, ' that it will abridge the prerogative of the Crown, to whom the executive power over the militia is said to have always belonged, by obliging the King, before he calls it into actual service, to communicate the occasion thereof first to Parliament.'

" I am sorry by this objection to find a dispute again started, which so much divided the lawyers and antiquarians of the last century, and was one great cause of all the blood that was shed in those unhappy quarrels ; especially as the various claims of power seem to be fairly compromised by this clause ; the command of the militia being given neither to the Crown nor to the Legislature separately ; the principal part, however, of the execution being lodged in the King, subject, in the case alone of calling them out, to one restriction from the Parliament. And if the sentiments of the wisest men, unsupported by arguments, could singly have any weight on a rational

ner: Such as, that whatever the Crown does, is of course legal, if it is found afterwards to have been beneficial or necessary.

mind, I could safely rest this point on the opinions of Mr. Selden and Mr. Whitlock; the first of whom spoke so warmly in the House of Commons against the sole power that was claimed by Charles the First over the militia, that the court imputed to the influence of his arguments, more than any thing else, the vote that was passed against them on that head; and the latter as plainly declared in the same place, 'that the power of the militia was not, according to law, solely in the Crown, but in the King and Parliament jointly;' and yet these men were not looked upon as over-violent spirits in those days. Charles had so good an opinion of the former, that he designed the highest employment of the law in his favour; and whoever peruses the speech of the latter, from whence the above sentiment is extracted *, will be sufficiently satisfied of his moderation. * * *

"The Parliament did hereby empower the King (Edward III.) to call out the militia on an urgent occasion; yet they shewed that they would themselves be 'judges of that occasion,' and that no original right or power of that nature was in the Crown, but such only as they were pleased to allow it; and so cautious were they in this respect, that they would not let 'necessity in general' stand as the foundation of this grant, but they were resolved to explain 'this necessity' themselves. It should be only 'the coming of foreign enemies into the realm;' so that it did not relate 'to domestic troubles or rebellion;'—it should also be 'the sudden coming;' so that probably the invasion must be actual before they could be drawn out of their counties, and not the apprehension of it only;—it must not be of public notoriety, or of which any preceding information could be obtained; for in such case the ordinary course of Parliament must be taken: And as a proof of this, we find that two acts were passed in this reign, expressly for calling out the militia on two particular occasions. * * *

"One farther consideration has been urged on this occasion, which can never, however, with propriety be mentioned where the power of the Crown is debated, and that is, the CHARACTER OF THE EXCELLENT PERSON who wears it. The love of such a Monarch might induce a loyal people to resign their rights, if he had not too much virtue to accept them. Not a wish for power has appeared in any one action of his reign; his subjects could not desire to be more free than he would have them; he has shewn himself fully satisfied with the lawful authority of a British King, whose peculiar happiness it is, that, to do good, his power is without bounds;—to do wrong, he has constitutionally no power; so that in a political sense he may truly be said to be blessed with the knowledge of good, without being cursed with that of evil; whoever;

* See the speech in Rushworth.

therefore,

sary. That, in consequence, acts of indemnity are never requisite; for if Parliament find the measure beneficial or necessary, it is legal; and if otherwise, an impeachment, and not a Bill of Indemnity, becomes the province of Parliament. And again, that it is out of the way to reason upon what a bad Prince upon the throne might attempt or effect. But the Noble Lord said, that if it was thus absurd to suppose the possibility of a bad Prince, all our barriers in favour of liberty were superfluous, experience proved nothing, and history was a lie. In like manner, if every thing the Crown did during the recess of Parliament was legal, if it was beneficial, Parliament becomes little more than a negative assembly. In all matters of prerogative, it seems, therefore, that ministers in future are to be *defendants*, and the public *plaintiffs*; that the burden of the proof is to rest upon the latter, and the presumption to stand in favour of the former; which is a new and monstrous doctrine.

therefore, would put him in a capacity of knowing the latter, is so far from being a friend to his Prince, that he is his great enemy and seducer; one who would drive him from his state of innocence and perfection, and rob the Crown of its most distinguishing prerogative; which makes it more secure and glorious to him that wears it, than that of any absolute monarchy can be. ***

"But it may further, perhaps, be urged, that a militia is unnecessary, since we may be better defended by augmenting our national army, or by hiring foreign troops." I shall answer plainly to this objection, that both these methods are dangerous and unconstitutional. I entertain not those absurd apprehensions of a standing army that possess some people, neither do I think that 20,000 soldiers of that sort could ever be destructive to our constitution; but I am confident that an army may be so far augmented as to become destructive. I entertain also the highest opinion of the officers of our present army; I believe them to have as warm a regard for their country as any native whatsoever. - Many of them are men of property, others are heirs or allied to families of property, and would lose as much in the general wreck as any; but I am sure that these gentlemen will agree with me, that in some future century it might be possible to alter and model such an army, and make it consist of persons not so public-spirited as themselves; and if its numbers should happen at that time to be considerably augmented, no more, perhaps, than what would be absolutely necessary for our security against a foreign invader, I should then (if I chanced to live in such an age) be seriously apprehensive indeed for the liberties of my country. ***

"The force of Magna Charta is by no means diminished, though repeated usurpations obliged the people to insist more than thirty times on its confirmation."

According to their arguments, ministers were to do what they pleased, and tell that House, "we do not wish for an Act of Indemnity; if we have done wrong, we are responsible." The Marquis said, it might be apparently fair and candid in ministers to court responsibility, and to own themselves willing to take it to any extent. Parliament however, he hoped, would not accept the favour they offered. He professed himself extremely sorry to have heard some Noble Lords treat Bills of Indemnity as idle, absurd, wrong measures, that seldom had been, or ought to be used. He must remind Noble Lords, that they had not always thought so. The Marquis said, that he was old enough to remember, in 1766, when it was dropped in that House, that when the embargo was laid on corn, it was but *forty days tyranny on the outside*. The clamour this occasioned, in a case where utility and necessity were universally acknowledged (the measure being neither more nor less than preventing a famine), is well known. Forty days tyranny was founded through the House; as if a tyranny of forty hours, or forty minutes, was too great to be endured. The notion of the tendency for the public good being sufficient to legalize such acts, was then exploded and treated with horror, not by *democrat Lords*, but by Lords who were generally looked upon to be men of a very different complexion.

It was certainly difficult to determine whether the logic, or the principle of the argument used that day, was most censurable. It was said, for example, that because the power of granting pardons, or creating Peers, or other powers given to the Crown, are universally recognised as legal, though liable to abuse, therefore other powers, not so given or recognised, are legal, because they may *sometimes* be used for the benefit of the Public. With regard to employing these Hessians, he would ask, Supposing the Isle of Wight, or any place in this country, where they are, was attacked, and threatened with an invasion, would they employ them without the sanction of Parliament? Perhaps it might be wise at the moment so to do; but let them do it at their peril; they knew they could not do it. They dared not employ a foreign soldier; let them look to it; they knew they ought to be impeached if they did. If this country was at any time likely to be in that situation, they were unfit to be ministers who could not provide for its security. We had plenty of resources within ourselves for our protection; call home our troops from abroad, and trust to ourselves by strengthening our militia, not by doubling it, and shifting it from county to county, as if they were afraid of the men loving their homes, their friends,

friends, and their neighbours too well, but by such means as were once before adopted, in the year 1782.

The act proposed, therefore, became necessary, to prevent the progress of such dangerous notions, and to prevent the renewal of such attempts as were made in 1775, and now at nineteen years distance are endeavoured to be revived, lest at some moment or other Parliament should sleep, or be surprised, or be deluded by such sophistries as had just been attempted, and a precedent, once established, be set up hereafter, in opposition to reason, right, and liberty. It is true, ministers, for the present, seem to give way; but it is equally true that they do it reluctantly, and not one of them without some reserve, which would keep the wound open. On looking back at all attempts to extend prerogative, it will be found that the proceeding has been the same as now witnessed. One or two bold men are put forward to try the ground; a round, imposing assertion is made to follow; and if the Public are found awake, and that the thing will not succeed, one or two more friends are employed to whittle it down again; and lastly, the powers of oratory come forward, to prove that such things were never thought of. It was whimsical, the Marquis said, to trace and observe the gradations, and shades of difference, between the several Noble Lords who had spoken on the subject that day, and were avowedly either *ministers* themselves, or supporters of ministers. It was, however, easy to be accounted for. A minister finds, that, in treating on a constitutional point, he has gone too far, and broached a doctrine revolting to every man's mind at all attached to the constitution. He gets one friend to rise in another place to reason upon the point, but not to go to the extent of his own doctrine; then another gets up, and falls much short of the point to which the first friend had pushed his argument; then a third rises, and almost gives up the matter altogether; and afterwards, on another day, if the minister is a very eloquent man, and has words at his command, he gets up in another place in a sturdy manner, looks all around him sternly in the face, and asks who dares accuse him of having ever said any such thing? denying, in the most daring and direct terms, that he ever held such a doctrine as had been imputed to him. Better undoubtedly it was that such doctrines had not been held, and that such things were never thought of; better undoubtedly it was that it should be so, than to have been persisted in; but far better it would be to have the act pass, which would effectually do away the present, and prevent all future attempts, and preserve the fundamentals of the constitution inviolate.

The Earl of Mansfield assured their Lordships that he would not be long, but that he would stick to the point. His Lordship said, he was aware that he stood on safe ground then, but he knew not on what round of the ladder he should be placed when he sat down. He declared, that he would not suffer the principles that impressed his mind to be warped by what he had heard in the House. He formed his judgment, not by abstract and theoretical propositions, but by the practice of our ancestors in the purest times. It did not appear to him possible precisely to define what was the particular extent of the prerogative of the Crown in this or that peculiar instance, because, as the prerogative itself was nothing more than a discretionary power lodged in the Crown for the common benefit of the kingdom and the King's subjects, the wisdom, expediency, and necessity of its exercise, depended altogether on the nature of the emergency which called it forth, and of the extent of that emergency Parliament were to be the judges. The King's ministers were undoubtedly responsible to Parliament for the whole of their conduct, and the question at all times, when the prerogative of the Crown was made use of, would be, not, whether ministers had a right to use the royal prerogative, but whether the occasion justified the manner in which they had exercised it. The Earl said, he could not agree with the Noble Marquis in many of his opinions, nor with the Noble Earl near him [Lord Lauderdale]. After what had been heard, there was but little occasion for him to say any thing respecting the precedents of former times; he would content himself, therefore, with adverting to the precedent of 1784, which had occurred in the time of the present ministers, and must be fresh in all their Lordships' minds. Noble Lords must remember, that the time to which he alluded was a period in which ministers were not likely to pass unwatched, nor did their conduct stand much chance of escaping censure, if it had been thought that censure was deserved. For his part, he saw no shadow of violence to the constitution in the transaction of 1784, nor did he perceive any shadow of violence to the constitution in the recent instance of landing the Hessian troops, and therefore he should vote against the proposed Bill of Indemnity.

Lord Grenville said, he could not let the debate go off without taking notice of some things that had passed in the course of it. His Lordship reminded the House, that the practice of introducing foreign troops into this country had prevailed in every war, or in almost every war, subsequent to the Revolution, at which period the liberties and constitution of this country had certainly been ascertained. A Noble Marquis, he observed,



observed, introduced much extraneous matter into his speech that night, through which he did not mean to follow him, but he could not help regretting that the Noble Marquis should so unnecessarily have introduced the subject of the internal defence of this kingdom, and the mention of a neighbouring island, when he must be aware that allusions to that island, however cautiously made, could be attended with no good whatever, but must necessarily be likely to lead to mischief. To return to the question before the House: He assured the Noble Marquis that his Majesty's ministers did not wish to ask advice from those, who had declared themselves enemies to the present just and necessary war. In such discussions as the present, endeavours were frequently used to lead ministers into the delivery of abstract opinions upon constitutional points; endeavours which he thought should be spared; for certainly it was sufficient for ministers to shew that their practice was constitutional, without committing themselves upon questions not connected with it. And since it was allowed, that the constitution itself consisted more in precedents and practice than in written rules, the practice of ministers might, with greater reason, be taken both for the standard of their opinions, and for the limit of inquiries concerning them. If they were ready to defend that practice, and could shew that it was in every instance constitutional, their conduct, he conceived, would be sufficiently justified, and their opinions upon abstract questions could not be necessary to their defence.

Yet, though he saw no necessity, in general, for the delivery of such opinions, and had no wish to make distinctions between his and those of other persons, he would state his sentiments as to the introduction of foreign troops into this country. He would admit, that the maintenance of a foreign army in this country, whether during peace or war, without the consent of Parliament, was illegal; that, when foreign troops were introduced without the previous consent of Parliament, the legality of the measure would depend upon the necessity of it; and that, after their introduction, ministers should advise his Majesty to communicate the circumstance of their arrival to Parliament as soon as possible, that Parliament, by consenting to the measure, might sanction its legality.

The Duke of Bedford rose to take notice of one point. The question of illegality had been discussed, and many Noble Lords had declared the practice of landing foreign troops without the consent of Parliament to be illegal. His Grace said, that he had not the smallest doubt of it. In the course of the debate it appeared to him, that there had been a variety of

of contradictions. One Noble Lord had said, that ministers had done nothing improper, and therefore, why pass a Bill of Indemnity? His Grace declared, he conceived it ought to be passed for that very reason. Had ministers done what would have subjected them to censure, or punishment, a Bill of Impeachment would have been voted, and in that case he should have thought the House ought not to have passed a Bill of Indemnity; but because they were allowed not to have acted from improper motives, a Bill of Indemnity was, in his mind, the proper proceeding. A Noble Duke had defended his voting against the second reading of the bill in rather an extraordinary way; because there were treaties on the table with the Landgrave of Hesse subsidizing that Prince, and stipulating for the pay of Hessians, if ever they should be brought into the kingdom. His Majesty most undoubtedly had the prerogative of making all treaties, and under a treaty with a foreign Prince he might land 100,000 Hessians, or other foreign troops, without the knowledge or consent of Parliament; but would it be either legal or constitutional? In fact, the Noble Duke's argument, if it meant any thing, went to the enormous length of giving the King an absolute power to bring as many Hessians as he pleases, and land them when and where he pleases. The Secretary of State had been clearer in his statement with regard to the employment of these troops; but he never would have such implicit confidence in the present ministers, or any administration, as to allow to the King the prerogative of introducing into this country any number of foreign troops in peace or war, without the previous sanction of Parliament, upon the mere assertion of ministers as to the manner in which they were to be employed. The supporters of the Bill of Indemnity had been accused of intending to lead ministers into the delivery of abstract opinions; a design, which, if he had entertained it, carried with it its own punishment; for he should have been much happier if he had never heard some of those delivered upon the present subject. A Noble Earl (the Earl of Caernarvon) had supposed the case of sickness, and hypothetically put it; but this his Grace considered a shallow pretext; a hundred thousand might be as liable to sickness as ten thousand, and thus we might have a very formidable army of Hessians, one half cast on one part of the coast of England, and the other landed on the Isle of Wight, on pretence of their being sick; for a large army were as liable to be taken sick as a small one; nay, the larger the army the more liable, and, under that pretext, infinite mischief might be put in practice against the country and the constitution. Much had been said about the impropriety of starting the abstract question; he

he was rather pleased that it was started, because he considered the illegality of the measure decided and admitted by all. For these reasons, his Grace said, he would certainly vote for the second reading of the Bill.

The Earl of Scarborough rose and declared, he had a very few words indeed to say. He informed their Lordships, that he was about to act, what ought to be considered as rather a singular part, *viz.* to retire, and not to vote at all. The Earl admitted the constitutional principle, but thought, all the consequences of the war considered, the House ought to put not only constitutional confidence but a personal confidence in ministers.

The Question being put, there appeared,

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Lord Grenville moved that "this Bill be rejected."

The Earl of Lauderdale said, the decision upon the question for the second reading of the Bill was a sufficient rejection of it; and was observing, that in the other House of Parliament, when the second reading of a Bill was negatived, an express motion for the rejection was never made, when

Lord Grenville replied, if the Noble Lord allowed that the Bill was rejected, he should not put the question.

Lord Lauderdale allowed, that it was rejected.

PROTEST IN THE LORDS,

Upon the Register of the Earl of ALBEMARLE'S Bill to indemnify Ministers for the Admission of Foreign Troops.

DISSENTIENT,

I. Because it is contrary to law for the Crown to keep an army in this kingdom, either in time of peace, or in time of war, without the previous consent of Parliament. And it is essential, that this important constitutional principle, which was unequivocally admitted in the debate, should be for ever maintained inviolable in this country. And the friends of public liberty ought ever to bear in memory the admirable vote of the House of Commons on the 5th of May 1641, when it was resolved, "That this House doth declare, that whosoever shall give counsel or assistance, or join in any manner to bring any foreign force into the kingdom, unless it be by command of his Majesty, with the consent of both Houses

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of Parliament, shall be adjudged and reputed a public enemy to the King and kingdom."

II. Because the Annual Mutiny Bill is a proof that the Crown cannot perpetuate, or assume a prerogative which Parliament annually bestows; nor exercise, at its own discretion, that power which the Legislature especially limits.

III. Because it is a most dangerous doctrine, that the Crown has a right, by virtue of an undefined prerogative, to do any act which is not warranted by common or statute law, under the frivolous pretence of its appearing to ministers to be useful. And the supineness of Parliament in the reign of James the Second, when so many acts, notoriously illegal, were committed by the Crown, and yet passed *unnoticed* in the two Houses, clearly prove, that from the want of vigilance in certain Parliaments, *precedents may be established*, subversive of national freedom.

IV. Because the maintaining of a foreign army on the establishment, or within the territory of this kingdom, is in open defiance of the very Act of Parliament which settles the Crown on the present Royal Family, namely, the 12th and 13th of William III. chap. 12. which expressly enacts, "That no persons born out of the kingdoms of England, Scotland, or Ireland, or the dominions thereunto belonging (although he be naturalized or made a denizen, except such as are born of English parents), shall be capable of being employed in any office or place of trust, either civil or military." And the Act of the 29th Geo. II. chap. 5. is a proof that the Legislature deemed it a special act of Parliament, to employ even a limited number of subaltern officers only, under certain restrictions and qualifications.

V. Because foreign mercenaries have always been useless, or dangerous, to whomsoever employ them. Their conduct has generally been peaceable and ensnaring, at first; at last, seditious and destructive. And those States, that have carried the points which they intended by their assistance, have usually, in the event, been enslaved by them.

VI. Because a prerogative in the executive power, to introduce any number, without limit, of armed hirelings, into any country, without the previous and express consent of the Legislature, is totally incompatible with any form of a free constitution. For not only that government is tyrannical, which is actually tyrannically administered; but that government also is tyrannical, however administered, where there is no sufficient security against its being tyrannically administered in future. And I solemnly protest against measures which

which tend to endanger the rights and liberties of my fellow-citizens, of whom I conceive myself only as a trustee.

STANHOPE.

Against the Rejection of the Indemnity Bill, for the landing of Troops in this Kingdom without the Consent of Parliament; which was moved by the Earl of ALBEMARLE.

I. Because, with the exception of only one Noble Lord, not one of his Majesty's ministers, it was in the debate unanimously admitted, that the keeping in this country troops, whether native or foreign, in time either of war or peace, without the consent of Parliament, is unconstitutional. And as it was also admitted unanimously and unequivocally, that the troops in question are here-upon grounds of fitness and expediency; and as the consideration of fitness and expediency, though they render, and, in fact, in the present instance do render, not only justifiable, but highly meritorious, do in no degree so change the nature as to make it more or less constitutional.

II. This Bill, though of a nature to be very sparingly adopted, yet was of particular propriety; for in a matter of great moment, it declared the law, saved the constitution, and did justice to the motives of the executive government.

III. Because the stopping of this Bill leaves the troops here, without any consent of Parliament.

IV. Because the effect of the declarations by which the right of the Crown so to keep troops here was disclaimed, however strong, general, and unequivocal, is yet transitory and fugitive; but the fact that troops are so here, is notorious and recorded; and when the motives which justified, and the declarations that reconciled to the House the measure, are forgotten, may be turned into precedent.

27th Feb. 1794.

RADNOR.

MUTINY BILL.

Upon the motion of the *Duke of Norfolk*, it was ordered, that the House should be summoned for Tuesday the 25th, when his Grace said, he intended to move for the recommitment of the Mutiny Bill, for the purpose of introducing a clause subjecting the Hessian troops in this country to the regulations of that Bill.—Ordered.

The House then adjourned.

HOUSE OF COMMONS.

FRIDAY, February 21.

The House, in a Committee of Supply, voted, "That provision be made for the pay and clothing of the militia

for the year 1794." The report was ordered to be brought up on Monday the 24th.

A petition was presented from Manchester against the Rochdale Canal Bill, and referred to a Committee.

Two petitions were presented against the Wyrley Canal Bill, and referred to a Committee.

The Warton Inclosure Bill was read a third time, and passed.

Petitions for Bills to regulate the Thames Watermen, the Bedford Poor, and for repairing the Bawtry, Bradford, and Beaconsfield Roads, were presented, and referred to different Committees.

PENNY-POST.

Upon motion, it was resolved, that the House do resolve itself into a Committee of the whole House, to consider of regulations relating to the Penny-Post Office. It was also resolved, that it be referred to the consideration of the said Committee, to consider of regulations to be adopted with respect to the establishment of a packet communication between this country and the island of Guernsey.

ATTORNEYS.

Mr. Rolle requested the Speaker to inform him, whether there was not a standing order against the reception of any petition in that House, entreating the retraction of a tax which might have been voted towards the supplies to be granted to his Majesty, before that tax had actually been levied and found burdensome and oppressive. The cause of this inquiry he stated to be the notice he had received of a petition about to be presented against the Tax upon Attornies.

The Speaker informed him that it was against a rule established a century ago, to receive any petition whatever relating to supplies in the course of the session in which they were voted.

NEUTRAL POWERS.

Mr. Grey said, that as it was his intention to bring forward the discussion concerning the conduct of the British Court towards Neutral Powers, for the better investigation of the subject, he wished to have certain official documents laid before the House, which he deemed essential to its elucidation. He therefore wished to know, whether he should meet with any opposition in moving, on a future day, for their production.

The Chancellor of the Exchequer wished to know what the papers were to which he particularly alluded.

Mr.

Mr. Grey answered, that he meant all the official communications that had passed between his Majesty's ministers and the ministers of Denmark, Sweden, Genoa, and Florence; and likewise the order of Council that was issued on the 6th of November last, relating to the seizure of American vessels.

The Chancellor of the Exchequer replied, that to the production of the last-mentioned document he should have no objection; but as to the others, he could give no answer till he had further considered the subject.

SLAVES.

Mr. Vaughan expressed his opinion of the necessity of making some observations on the late proceedings of the French, respecting their negroes and mulattoes, on which the safety and tranquillity of our West India islands so materially depended. It was notorious, he said, that every exertion had lately been made to disseminate among the slaves of the French islands the most dangerous doctrines; and that, in fact, these doctrines had not only been dispersed in the island of St. Domingo, but also proclamations had there been made by a *Monf. Polverel*, giving a most dangerous extension of liberty and property to all the negroes of that Island; among other instances, a right to chuse their masters once a year, and to receive a third of the product of their labour, deducting the expences, &c. and out of the two thirds which remained, the planters were to pay all taxes: That they were to have a choice in the appointment of persons who were to preside over them, in the management of the estates, and the education of their children, &c. &c.

From these articles he feared some danger might ensue, unless speedy and effectual measures were adopted to prevent it. Nor was the danger only to be feared from these decrees, but from the resolution also of the National Assembly, which tended to establish a general emancipation. It was a maxim that smaller events might be concealed, but that greater events quickly communicated themselves; and this was peculiarly to be dreaded in the present instance. He was aware that our smaller islands were under no instant apprehensions, because there was a sufficient protection, as the force of all of them might be brought to act against the revolvers in any one of them; but Jamaica was left to its own resources, which were happily not inconsiderable, as it had a fine militia, and might on occasion recall its troops from St. Domingo. But nevertheless things ought not to remain in this situation. He thought the present state of affairs called for strong and early measures, both from Government here, and the Colonial

Colonial Legislatures abroad. He then took a comparative view of the negroes and the whites, and thought that if a mulatto and black yeomanry on our part was established, it might effect some advantages : That a conquest of the French islands would prove but a palliative, as the French had wasted 12 or 15,000 troops, in an attempt to restore order in their islands, but in vain : That in St. Domingo the island was said to be divided between the blacks, browns, and whites, who stand possessed of property ; and the blacks, browns, and whites, who have none ; which was not a situation for us to envy : That a conquest might even do mischief by opening an intercourse with persons whose principles could do our mulattoes and negroes no service. He did not at present intend more than to draw attention, and obtain assurances which should quiet alarms, and therefore he should not wish to *press* any motion on the subject. One motion he had certainly to make (for the sake of form), which it was optional to accede to or reject. This was, " That an Address be presented to his Majesty, requesting his Majesty to recommend such measures for the safety and tranquillity of the British West India islands, as his Majesty in his wisdom shall think fit."

Mr. Jekyll seconded the motion.

Mr. Secretary Dundas objected to the motion, because the Hon. Gentleman did not inquire whether his Majesty's ministers had made any regulations in consequence of the decrees of the Colonial and National Assemblies, or whether they proposed to do so. The motion, in his opinion, was intended to convey an insinuation, that his Majesty's ministers were regardless of their duty, and, however general it appeared, might be suspected of some personal prejudice. No one surmise, however, had been stated, he said, to warrant the insinuation of neglect ; and, in fact, the West Indies at this moment received every attention which the motion could tend to excite.

Mr. Vaughan explained, that there was no personal disapprobation, that he was not conscious of any neglect in the Executive Power, nor would he doubt that the measures of the ministers might be effectual, if any measures relative to his motion were in force or agitation. His motion was calculated solely for the safety of the islands, and to give such information to the ministers as they might not have the means or leisure to procure. As he was not in the habits of personal intimacy with them, and adjudged it expedient to be vigilant in the counteraction of evil, which was more easily to be prevented than be suppressed when it had once obtained existence, he concluded, that by bringing forward a motion of this nature,

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ture, he should have trouble and suspense. If the ministers had not been apprized of the necessity of some regulations on the subject, they might thus become so; or if they were, and had adopted them, the Public would gain the best and earliest assurance of it, and the merchants, who might have otherwise assembled at the London Tavern on this occasion, would be satisfied of the protection of their property. Since, however, his motion was thus happily anticipated, and made useless, to prove that he had no suspicions or personal disapprobation, he was willing to withdraw it.

Motion withdrawn.

HALIFAX AND NOVA SCOTIA.

Mr. Sheridan rose to make his promised motion relative to the unprotected state in which Nova Scotia had been left during the last campaign, on which so much had been said in former debates. For Members of Parliament who thought as he did, and who had endeavoured to avert the war in its origin and prevent its continuance, there only remained two important duties in circumstances like the present. Having discharged the first of these by endeavouring to obtain peace, the second was to watch over the conduct of ministers, and to see that the supplies voted for prosecuting the war, and wrung from the pockets of their constituents, were faithfully and diligently applied. He observed, that when, upon a former day, he had directed the attention of the House to the defenceless state of Halifax, of Nova Scotia, and New Brunswick, his assertions, though supported by indubitable testimony, had not only been denied, but it was stated to be dangerous to make inquiries into the proceedings of the Executive Power. Notwithstanding this statement, however, there were two duties, which, in his opinion, had a peculiar claim on him, and on the Parliament. These duties were, first, to regard what sums were necessary for the government and safety of the country; and secondly, when they had granted the money necessary for that purpose, to regard the application of it. If certain principles which ministers had laid down were to be adopted, there must be an end of all inquiry. If it were true that no inquiry ought to be entered into during a war, on account of some danger with which it might be attended; then it would follow, that, the greater the misconduct of ministers, the greater must be the danger of the country. The very misconduct which it was the duty of the House to prevent or to punish, would be a conclusive argument against all inquiry. It would be as improper for the House to be governed by such rules, as it was indecent in
ministers

ministers to bring them forward, for it was clearly their interest to render inquiry difficult, if not impossible. Far different were the principles of the Right Hon. Gentleman (Mr. Pitt) on the subject of the American war. He was then, not being in office, a strenuous advocate for inquiry into the conduct of ministers. He then maintained that it was often necessary to suspect, though there was no actual error or misconduct; he then inquired into the conduct of the Admiralty, the fleet off Ushant and the Dogger Bank. He was now minister, and had changed his opinion on this, as well as on many other constitutional points. The general and established principle was, that wherever miscarriage had happened or neglect appeared, the House by inquiry should satisfy the country that the miscarriage had been unavoidable, and the apparent neglect owing only to want of means to do better. Whenever a ship of war was lost, or taken, it was the constant practice at the Admiralty to summon the captain, or commander, before a court martial, and there, according to evidence, condemn him or acquit him. The Admiralty, by this examination, did not insinuate that every person who was summoned by this law was criminal. It proposed no benefit—it presumed no guilt. An expence was incurred to the nation, and much trouble was given, and frequently material loss; for the persons who were to be examined were detained, though their character and abilities were highly reputed, and their service required on an important expedition; witnesses were brought from a great distance, and the court martial was employed. This he stated to shew that the principle of inquiry was recognised, and that the inconvenience of it in particular instances was far outweighed by its general good effects. On the motion for inquiry brought forward by his Right Hon. Friend (Mr. Fox), ministers said, that to vote an inquiry into their conduct in granting convoys would serve only to give the merchants unreasonable hopes of protection, which could never be realized, and might tend to propagate and increase complaints. This surely was admitting that they had not hitherto received sufficient protection; for if they had, the House upon inquiry would have found it so, and by their decision put an end to all unreasonable or frivolous complaints in future.

[Mr. Sheridan was here interrupted by a message from the Lords, that the Lords had agreed to certain bills; immediately after which the Gentleman Usher of the Black Rod summoned the House to attend in the House of Lords, where the royal assent was given by commission to the Land and Malt Tax Bills, the Bills for making
certain

certain Duties on Spirits and Sugar perpetual, the Bill for the new Duty on Spirits, and several other Bills.]

Mr. Sheridan proceeded. Even where the House refused to go into the inquiry, the motion for it, as that of his Right Hon. Friend (Mr. Fox), who would have the thanks of every merchant and manufacturer in the country, might be productive of much public benefit. Our manufactures would no longer remain unfold, nor be returned upon the hands of the manufacturers, by the shameful delay of the vessels in our ports for convoy. Our trade would not again be soon exposed to the enemy for want of protection; nor would a fleet, valued at 5,000,000*l.* sterling, be suffered to sail across the Atlantic with no other guide and guard than a sloop. Ministers would be more attentive to their duty; or if they were not, their misconduct would stand without excuse, and be marked with the censure of the House. On these grounds his motion stood. The Right Hon. Secretary of State had read a variety of extracts, contradicting what he had formerly said on the subject of it. They were at issue on the facts, and if he still continued to press the inquiry, the papers from which the extracts were read could not be withheld, or if they were, he must amend his motion, and charge the Right Hon. Gentleman with having wilfully misled the House by garbled extracts, hurried over with a degree of rapidity scarcely intelligible, on false information. He had heard the Right Hon. Secretary, last session of Parliament, lamenting to the House that he never went to bed at night, nor got up in the morning, without feeling that he had more to do than he was able to perform. To his astonishment he now saw him still groaning under the same load of offices and employments, and therefore could not be surprised if some parts of his Majesty's dominions had escaped his attention. He had formerly charged ministers with neglecting the defence of Nova Scotia; but if, on better information, he had found reason to amend the motion, of which he gave notice, or to retract any of the facts he had then stated, there could be no reasonable objection. If, however, he did amend, it would be by adding, not retracting; for all appearances would justify him in suspecting that New Brunswick, and Canada, had been as much neglected as Nova Scotia. His information had been treated as anonymous, and a letter of his printed, with a comment, in a Treasury paper. He admitted that he had written such a letter in answer to one he received from Falmouth; and it was equally true, that those who had not possession of it, had degraded the manly character of Englishmen, which was formerly

merly open, frank, bold, and hospitable, to the mean, cowardly, malicious disposition of spies, evesdroppers, and informers. He related an anecdote. A letter had been lately sent to Nottingham for information on the state of the manufacturers there. One of the wise inhabitants, who was perplexed to discover the meaning of this letter, remitted it to a Member of Parliament in London; the Member flew with trepidation to the Treasury; the minister he supposed sent it to the Attorney General, and this little harmless letter would probably soon be the cause of another proclamation. To discuss any subject now was faction, and to make the least inquiry sedition. Such was the refinement of this doctrine, that it extended to our commerce, our trade, and our manufactures. A letter sent under the cover of an Hon. Friend of his (Mr. Grey), had been obtained in the same reputable manner: And he did not know whether it might not be the cause of a new proclamation, or of calling out an extraordinary levy of militia, in an extraordinary way. The system seemed to be to cut off all communication between Members of Parliament and their constituents; and he did not doubt but that, if all those who had endeavoured to obtain, or who had given information, were in Scotland, they would be dealt with in the Star-chamber mode now in fashion there, and be tried and sentenced, like the unhappy wretches who had been accused and convicted of misdemeanour; which mode of proceeding he declared to be disgraceful to the British judicature, and which would have done no discredit to the worst of the Stuarts.

A public paper (the True Briton), which he was justified in calling the Treasury Gazette, since it was universally believed to be in the pay of the Treasury, and was known to derive its principal and *only* intelligence from that source, had, with uncommon sagacity and circumspection, already intercepted a letter, and thus unfolded the mysterious secret.

Mr. Sheridan then read the letter, which, he said, the editor of the True Briton had published in that paper on Wednesday the 19th instant. The following is the copy:

“MR. ANONYMOUS DISCOVERED!!!

“Though Mr. Sheridan, in the course of debate in the House of Commons, quoted a letter, the writer of which he was *unwilling to expose*, we can assure the Public, *that the letter had a name to it*, as will appear by the following answer, which was sent to it by the *worthy* Senator:

“SIR,

" SIR,

" I am much obliged by your communication respecting Halifax. I mentioned the subject in the House the first day of the session, and I since find your intelligence confirmed in every particular. I shall be happy at all times to be favoured with any intelligence which you think may be made use of for the advantage of the country.

" I am, Sir,

" Your obedient Servant,

(Signed) " R. B. SHERIDAN.

" *Leaver Grosvenor-street, Jan. 29th.*"

Directed—" London, January twenty-ninth, 1794.

" Mr. J. BLUETT,

" Free, R. B. SHERIDAN."

" Falmouth."

" The above letter went of course as it was directed, and was taken out of the Post-Office at Falmouth by the only person of the name of Bluett in that place, who happens to be a young midshipman of about fifteen years of age. The boy's astonishment at the contents are not easily to be described—He handed the letter about the town, where it occasioned no small mirth; as that to the *Hon. Member*, to which the above was an answer, was thus proved to be one of those *Cornish hums* which some wag at Falmouth has practised upon several former occasions with similar success.

" We shall hope to hear Mr. S. give this account of his FRIEND *Mr. Anonymous*, in the House of Commons, with all that wit and humour which he so peculiarly possesses; but at the same time we must be permitted to hope, that he will in future take care to be *better informed* before he ventures to bring charges against the Executive Government."

On this letter Mr. Sheridan made many pleasant comments. The cunning editor, he observed, had discovered, that an anonymous letter is a letter which has a name. This was an admirable proof of his discernment. In the next he had published a letter to prejudice the Public against him, and this letter served to interest them in his favour; For, first, he was stated to be polite and civil in confessing himself obliged to the gentleman at Halifax; this cannot be very criminal: Secondly, he found the gentleman's intelligence confirmed; this proved the authenticity of his friend, and that he did not proceed with rash precipitation, on vague or anonymous report: Thirdly, he solicited the favour of his intelligence in future, which honoured their connexion: And lastly, he solicited it upon conditions only, whenever it may be to the use or ad-

vantage of his country; whereby he displayed his rectitude, zeal, and patriotism. What was there blameable in this? The editor had been pleased too to call him worthy Senator, marking the word *worthy* in Italics, thereby intimating either that he really believed him to be so, or that, in contradistinction to the ministers, who are no patriots, every person must be unworthy who considers the *advantage* of his country.

But this is not all, said Mr. Sheridan; for the learned editor has been pleased to subjoin some annotations of his own. These he recited, and observed, that it was the first time he had ever heard of a *Cornish hum*. From the knowledge he had of some of the Cornish Members in that House (and there were plenty of them), he could not suppose that the people of that country were so witty. He confessed it hard sometimes to judge by specimen. He had heard very frequently of a *Cornish bug* and a *Cornish borough*; but though he did not mean to insinuate any disrespectful opinion of the people of Cornwall, the *Cornish hum* was certainly a novel term. He was glad to find that Cornwall was as fertile in wit as it was prolific in Members of Parliament. One sentence, however, he must object to; though the general tenour of the letter, he confessed, was like that which he had written. The sentence he objected to was that which stated, that he had mentioned the subject in the House on the first day of the session. He never had hinted any word applicable to the subject on the first day of the session, nor did he make any mention of Halifax whatever. Another absurdity he laughed at was, that the letter was said to come from Falmouth. He maintained, that it came directly from Halifax, as he was willing to shew, by the post mark, to any Cornish burghers who might have the curiosity to view it. He said he had now more than fifty letters of the same purport--some of them anonymous--some with the names of persons who wished not to be mentioned, because to give any information to ministers was to subject men in particular situations to inconvenience and even loss, or because if the information came from persons connected with any particular colony, it might draw the wrath of ministers on the colony itself; but much the greater part with the names of persons who were ready to stand forward, and prove at the bar of the House what they stated in their letters.

Mr. Sheridan said, he regretted the absence of Right Hon. Gentleman (Mr. Burke); a Gentleman, who a few nights since had pretended that the dependence of Nova Scotia was not necessary to the mother-country. He maintained that it

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was essentially necessary, and would maintain it, though still opposed; like a gentleman, who some years back had introduced the story of a cat in his debate, that fondled a young kitten, and cried *Mew*; upon which he was called to order, when he quaintly replied, that he did not know there was an order of that House to prevent his crying *Mew*. He urged the great importance of Nova Scotia to this country, more especially in case of a rupture with America, which if ministers should persist in that line of conduct towards neutral powers, that had disgraced the national character; if they should issue orders for seizing American ships one month and revoke them the next; he feared was not far remote. He remarked that Halifax commanded Canada, had the best harbour for shipping in that quarter, and was an excellent place for the recovery of sick seamen and invalids, as had often been experienced. Viewing its use every way, it could not be estimated too highly. In the last war its utility had been determined. But if we continued so careless as we had of late seemed to be of our navy; if we pursued the system of rashly issuing Proclamations, and as hastily retracting them; he feared it was not wholly impossible, or even improbable, that such a very melancholy event as a rupture with America might take place; and then, indeed, Halifax would be invaluable. Those who were masters of the sea would always be masters of the West Indies; but we could not be so if we had not Halifax as a refuge for our ships from the fury of the hurricane season. Should a war with America happen, what better protection have we for our West India trade along the coast, than the possession of Halifax? It was by our naval force alone our dignity was supported, and Halifax and Nova Scotia contributed essentially to that support. While masters of the sea, we were masters of the product of America, and might in fact be called the masters of the foil. Mr. Sheridan recapitulated the nature of the defence of Halifax in 1754, when it was the great rendezvous of our fleets and armies. He adverted also to its state of defence after the peace in 1763, when the peace establishment was so great, that six regiments of foot, five frigates, and a fifty-gun ship were stationed there. This force was increased in the American war. In 1783 there were six regiments, a fifty-gun ship, and five frigates. He gave a list of the ships under Commodore Sir Charles Douglas, in 1785, and an account of the land forces: Arguing from these premises that at that period there was either a scandalous extravagance, or in the present instance an unjustifiable neglect.

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He took notice of the directions which were sent in February 1793, to raise Fencibles at Halifax and in Nova Scotia, at the time Admiral Gardner's fleet was taken by surprise. At that time, only one sloop of 28 guns, the Hussar, Captain George, was stationed in that quarter; and the land forces consisted of no more than two regiments, and one company of artillery, containing about 90 effective men. Here he recapitulated his former arguments; and so far from meaning to arraign the loyalty of his Majesty's subjects in that quarter, he was well assured they were loyal, and this therefore was an additional aggravation. At Halifax there was between 2 and 3,000,000*l.* of property, and only 350 wretched men to protect it. Instead of 9000 men in arms, 4000 effective men, and the *posse comitatus*, the mass of militia-men with pitchforks, &c. as had been stated in the official accounts of Colonel Wentworth, and boasted of by the Secretary of State, 350 men was the only force. But Colonel Wentworth, Mr. Sheridan said, was not the proper person to apply to for information on this subject. However respectable in private life, he was only a civilian, and not a regular soldier. It was well known that the boasted mass of militia was raised upon the plan of the French requisition, the men were raw and inexperienced, without discipline and without arms, and totally unfit for service. Why did not ministers get information on the military state of Halifax from General Ogilvie, the only military officer who commanded there?

With respect to the naval defence, an Honourable Admiral (Gardner) would inform the House, and perhaps state what his instructions were.—Mr. Sheridan said, he would not here be told, that the House was not qualified to discuss the conduct of admirals, because they wanted professional skill—they were admirals, generals, lawyers, for the purpose of inquiring into the conduct of every officer, civil, naval, or military, employed in the public service, else they might as well surrender at once every function for which a House of Commons was instituted. In July Admiral Gardner sailed with a convoy from the West Indies. On the 24th of June the French fleet sailed for America from St. Domingo. He wished to know whether or not at that period Admiral Gardner thought that all the French ships of war were to come to Europe, as he was doing? If he acted on such a supposition, ministers were culpable in not sending him better information. The Hon. Admiral had said, that a single ship was sufficient convoy for a homeward-bound West India fleet. If he thought so, why did it not occur to him that the French Admiral might think the same, and send home the French West India fleet,

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fleet, if it had been meant to send it home, with a single ship, he himself remaining with the rest for other operations? What prevented Admiral Gardner from detaching part of his ships to Halifax, or going thither himself, when he was expected, and cattle actually purchased to victual his ships? Why did he come away with two 74-gun ships, when the French had only four frigates and no privateers? Why did he divide his ships to convoy the other fleet, which consisted of 120 merchantmen, and apportion so large a convoy when a smaller one would suffice? and what prevented his going to Halifax, or detaching a part of his ships to meet the French there? Captain Courtney, whose gallant behaviour in the action between the *Boston* and the *Ambuscade* would be recollected by that House, had written about it; and yet, for want of better information, he was obliged to return without the accomplishment of his design. He could then have protected the coast, and been ready for such further operations as Sir John Jarvis with another fleet had been since sent out to execute. By his sailing for Europe in July, the whole trade of Halifax was left exposed to the enemy, and the greater part of it intercepted. The French fleet arrived on the coast of America in August, and sailed avowedly for Halifax in October. What was then the defence of the place? The batteries were not mounted, the regular troops, including artillery, about 260 men, and Governor Wentworth's corps, which was certainly over-rated at 350, a set of men, in general, so unfit for service, that even in that loyal province, they were called the *Sans Culottes*. The officers indeed were complete, after many remonstrances to the Secretary of State against the nomination of officers who had never seen service, and that was as much as could be said for the corps. The Right Honourable Secretary of State had said; there were 4000 effective men in the place at that period. Would he now maintain that there were more than 700 of any description? Or, let him take into the account as many of his militia as he pleased, would he say that this was a sufficient defence at a time when the disposition of America was doubtful, and when, instead of swaying councils that might be fluctuating, by the imposing appearance of our naval force, a single French frigate was sweeping the coast, and crowding the American ports with our captured seamen?

He gave a list of Sercy's Squadron, and noticed the interception and capture of the Halifax traders upon the coast. He then quoted some extracts in support of his observations from the Halifax papers, to shew how publicly notorious the danger was they were exposed to, how deficient in defence,
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and what losses were sustained. Of these a precise account could not be obtained at Lloyd's, because many of the vessels were insured at Boston and New York.

The Right Hon. Secretary of State had said on a former night, that the officers were all taken from half pay. This he was able to contradict. Colonel Wentworth himself was not so; Major Howe was not so; with several others whose names were among the papers which he held, but to which he could not instantly refer. This was what he called the jobbing spirit of partiality; and so much was that spirit reprehended in the country, that complaints were made and sent to England, the consequence of which had been, that some alteration had taken place. Mr. Sheridan said, he was well informed, that, instead of the mass of militia computed at 9000 men in arms, there were not above 7 or 800 men scrambled together from all parts, and many from 200 miles up the country. Almost all the letters he had received since the subject was first mentioned, began with—"I am astonished at Mr. Dundas's assertion respecting the force at Halifax." He named the different information we received of the danger and losses on the coast of America, by the Chesterfield packet, which sailed in May; the Carteret, in June; the Portland, in July; the Circe, from St. Domingo, and the Halifax, in August; the September packets, and the Journal which was sent to the Treasury and Admiralty, at a time too when Genet and the French Vice-consul had so provoked the Americans, that they would have been happy to have assisted us; though it was alleged, in excuse for our neglect, that an armed ship in their ports would have excited their surprise and indignation. The proper defence of the coast, and of the valuable stores and ammunition, which might have been carried off or destroyed, was neglected, and they were saved only by a mutiny in the French fleet, which obliged the ships to abandon their object and sail for Europe. The panic extended to Quebec and New Brunswick. At the latter place there were no arms and much property—ten ship-loads of masts only. A vessel lying there with government stores, at a demurrage of 500*l.* a month, was at length obliged to sail without convoy for Halifax, where she might be still lying. At Halifax the people were so alarmed, and among the rest the Chief Justice himself, that they were sending their property and their families seventy and eighty miles up the country.

In corroboration of his assertions, he said he would bring proof to the Bar of indisputable authenticity; officers and engineers; the former, who were there at the time, and the latter acquainted with the minutest particulars, having measured

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sured over every inch of the place. He would also, he said, bring members of the Assembly of Halifax as witnesses; and he challenged ministers to produce all the letters they had received from merchants on the subject; declaring that if they did not all substantiate what he said, he would submit to the imputation of extreme rashness and imprudence in his assertions. He advised ministers, therefore, to beware how they shrunk from inquiry; for either the Right Honourable Gentleman or Governor Wentworth had deceived that House.

If on the result of the inquiry he should be proved to be wrong in these statements, let the House censure him—on this condition he was ready to go into it; but let not the Right Hon. Secretary of State bring down official authorities in his hand, read such parts of them as he pleased, and call such partial extracts, proofs. Let him read the whole, and he would join issue even upon them. He should also desire to see a memorial, delivered to the Secretary of State since the last discussion, complaining of the want of protection of Halifax. He concluded with moving for copies of the letters and information on the state of Halifax, from Lieutenant Governor Wentworth; of all official accounts of the protection afforded to trade on the coast of Nova Scotia; of the letters from General Ogilvie; of the return of the effective force of Lieutenant Governor Wentworth's corps; of the correspondence on the raising the above corps; and an account of the dates of the sailing of the packets from Halifax, and the information brought by them of the French force on the coast of America.

Mr. Secretary Dundas said in reply, that the charge brought against ministers by the Right Honourable Gentleman, if it could be proved, was undoubtedly of a serious nature, so much so, that he wished to meet it with immediate proof to refute it. He owned, therefore, that he was under some difficulty in withholding Governor Wentworth's letters after what had been said. The contents, however, were exactly as he had formerly stated them; and to his conviction strictly true. His answer to the general charge would be the same as he had already given—a reference to the situation in which we were at the commencement of the war. The small force we then had was to be applied to the services most urgent and most important; but it could not instantly be made sufficient for all. The two regiments were removed from Halifax with regret; but the service in the West Indies was more pressing, because Government had information of a plan laid by the French for exciting insurrections among the slaves in our islands; and to this danger was added that of the apprehension of an attack upon some of them. Ministers had then

no means of sending troops to the West Indies but from Halifax, where the danger was less, because the settlers consisted chiefly of men who had been in the army, and of officers on half-pay, of whom corps for defence could speedily be formed. It was not his intention to say, that removing the troops from Halifax was a matter of choice; he begged to be understood to describe the measure in its proper light, as a measure of necessity. When the war commenced, the situation of Halifax was not very strong in point of military strength; there were but three regiments on a low peace establishment: The West India islands were in nearly the same situation; there were but three regiments there also, and those very much reduced. The West India islands were considered as an object of great importance to this country, and much more likely to fall a prey to the enemy than Halifax. The first was at least as formidable as the last. When those two enemies were joined together, it was matter of fair consideration, whether, under these circumstances, it was not the indispensable duty of ministers to provide against both their internal and external dangers in that quarter. There did exist, he said, an intention of an invasion of our West India islands in the year 1792; this was pretty generally known; and the apprehension of our Government was by no means ill founded, that these islands were to be the object of attack. The French envied our prosperity there, and were likely to use every exertion to weaken and destroy us in that part of the globe. Ministers therefore, Mr. Dundas said, not only had recourse to Nova Scotia for assistance, but they also sent troops from Gibraltar, and from Ireland.

Respecting Nova Scotia, the embodying a militia occurred to him as the best plan of defence; and were similar exigencies to arise, similar regulations would, in his mind, be the most commendable for the resistance of an enemy. The militia of Nova Scotia were not formed of men entirely ignorant of the military art. They were incorporated with those who had been accustomed to actual service, many of the officers and soldiers having been often engaged on the most critical occasions. For these reasons (not on account of *too much duty*, as ludicrously mentioned by Mr. Sheridan), he had agreed to the removal of the regiments. This plan was founded in policy; for as soon as there were any apprehensions of danger, the improvement of the arsenal, the batteries, and other military preparations in Halifax, afforded the most perfect security against the attack of the enemy; and an incredible number of forces were collected in a very short time, to answer the temporary emergency. These were incontrovertible

proofs of the vigilance and wisdom of Government; and ought to satisfy the Honourable Gentleman and his friends, that their allegations were ill-founded.

Mr. Dundas said, that in the last debate on the subject, he had said so much in praise of Governor Wentworth, he would avoid a repetition of all the encomiums which he had bestowed; but thus much he might be permitted to affirm, that, in the whole circle of society, there did not appear a more virtuous man, or an officer better calculated, in every respect, to discharge the duties of a governor than that gentleman. As to the sarcasm respecting the sum of 1000*l.* for his newly-raised regiment, the Honourable Mover ought first to have ascertained the truth. Mr. Dundas declared, that "Governor Wentworth received no pay at all for his regiment; but continued to enjoy the same allowance as if it had never been formed." From this view of the subject it was evident, that the Governor was liable to no imputation whatever; and he thought the best mode of abridging the present discussion, would be a simple recapitulation of certain facts contained in the Governor's correspondence, which was ready for the inspection of the Gentlemen on the opposite side, if they were actuated by any particular curiosity.

Mr. Dundas observed, that he had been accused of misrepresentation; he begged leave to say however, that he was as little interested in a misrepresentation of facts on the present occasion as any man. The Honourable Gentleman had stated, that he should have produced the letters of General Ogilvie, who was a military man, if he wished to obtain any credit for the account he gave of the military state of defence in which Halifax was placed. He read extracts of two letters from General Ogilvie, stating, that he had endeavoured to repair the batteries, and hoped to be able to resist a considerable sea force; and an extract of a letter from Captain George, of the *Huslar* frigate, stating that, in August, fifty heavy cannon were mounted on the batteries; that there were six hundred men to defend the place, including Governor Wentworth's corps, and besides two regiments of militia; and that there was no reason to fear an attack. The troops waiting impatiently for the enemy, were very much disappointed when they heard that they meditated no attack in that quarter. These circumstances operated very forcibly, Mr. Dundas said, as a contradiction of the weak state of Halifax, which the Honourable Gentleman had reported was so defenceless as to be exposed an easy prey to the assailants. In corroboration of these assertions, the most convincing proofs have been transmitted from the Governor, from the Commo-

dore, and from various other officers, all of whom positively declare, that the place was rendered strong enough to repel any invaders.

Under these circumstances the troops were removed from Halifax, and the event justified the measure. A force was speedily called out, that gave complete security to the inhabitants. He saw no reason for distrusting Governor Wentworth's information. No man was more esteemed in the Colony he governed than he was. Besides, it was much more usual for governors and commanders to complain that their force was too small, than to write that it was sufficient, when it really was not. Nor could he have any reason to speak more favourably of the corps raised by him than it deserved, for the reason which he had before stated, *viz.* because he received no more as colonel of it, than he did before as Governor.

With some degree of triumph, Mr. Sheridan, and others, had demanded the detail or particulars of those warlike preparations, and a statement of the latest dispatches. Mr. Dundas assured him, that he had produced no letter which was not of a date "posterior to the departure of the French from those seas." But he could state the nature of the batteries, and the various descriptions of guns, by the communication of Major Hodgson, arrived in London within these two days, who affirmed, as "the sentiments of all military men, that they regretted they had not been attacked by the enemy, convinced that they would have achieved much glory." In enumerating the various places of defence, he mentioned the number of guns on Mount Pleasant, General Ogilvie's battery, Maclean's battery, Commissioner Duncan's battery of 24 pounders, that of George Island of six 24 pounders, &c. &c. all of which had mortars of considerable magnitude, furnished with the necessary supplies. Mr. Dundas observed, that in respect to Halifax, although the foregoing statement was merely from an imperfect recollection of Major Hodgson, yet it was evident, that ministry were, in their plan of defence, more remarkable for a laudable excess than a culpable deficiency.

Mr. Dundas took notice, that Administration had been arraigned for not sending out transports to carry the troops to the West Indies. To that charge he pleaded guilty; since, under these circumstances, and with this method of obtaining transports, it would have been the height of folly in him to employ any ships for that particular purpose, especially when it was considered that at that time we were under the immediate necessity of fitting out a fleet for the Channel, and sending another to the Mediterranean; and on the commencement of the war we had only 13,000 seamen on our establishment.

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He was aware of the great difficulty ships experienced in those seas, in the winter, and recollecting the practice of the vessels belonging to Nova Scotia (which were more numerous than Gentlemen imagined), their departures for the West Indies in the month of November, and their returns thither in March or April, it was thought adviseable to take every advantage for the removal of the regiments, which had been happily accomplished. The charges on this head were consequently easily refuted; because, after the declaration of war, it would have been exceedingly dangerous and impolitic to have sent ships into the American seas, to be annoyed or captured by the enemy.

Gentlemen, Mr. Dundas observed, had also condemned Government for not sending sufficient convoys into those seas; but it ought to be recollected, that not a single ship of the description alluded to had fallen into the hands of the enemy, a convoy having been sent with each of the embarkations: The *Winchelsea* with the first, which also carried part of the troops. With regard to the second embarkation, he read an order of the Admiralty, dated 10th March 1793, directing the *Alligator* to proceed on this duty, and, in compliance with the order, she immediately proceeded to take charge of the second embarkation. Mr. Dundas explained the time which necessarily must elapse before the troops could be conveyed to the West Indies; and affirmed, that the *Winchelsea* and three other frigates afforded the most ample protection. From all these truths it was evident, that the present motion, instead of an inquiry into the miscarriages of the war, would prove an inquiry into its successes, not a single capture having been made by the enemy.

After corroborating these facts by a variety of collateral circumstances, Mr. Dundas said, that, notwithstanding the bold observations of the Gentlemen on the opposite side of the House, he was perfectly ready to adhere to all his former assertions. If a reduction of the military establishment of Nova Scotia were an act of criminality, he pleaded guilty; and he confessed his astonishment how any description of men could dwell for a single moment, in a censorious manner, on a measure which tended to public economy. By withdrawing these troops from Halifax, the place was by no means endangered. There remained a powerful train of artillery, a sufficient number of regulars for immediate service, and a spirit of enterprise equal to any achievement. In every respect Halifax was as well prepared for defence as if the 1800 men alluded to had remained. He knew well that it was impolitic to institute a militia in an infant colony, because such a measure interrupted

ed the desirable progress of agriculture; but in this case no danger had resulted from the expedient, because all acknowledged that the public security was paramount to every other obligation. Gentlemen were fond of inquiries; some inquiries were to be instituted concerning the misconduct of the war, some inquiries concerning the misfortunes of the war; but the present inquiry turned out to be concerning the success of the war; and the Hon. Gentlemen seemed determined to bring all his Majesty's ministers to a court-martial, to try them for the *ship not lost*. The Hon. Gentleman had said, that the force in Halifax had not been equal to that maintained in former years; it was not possible to maintain such a force as six regiments on that station, whilst Gentlemen on the other side of the House were actually goading ministers to reduce the peace establishment; but, before the Hon. Gentleman could with fairness bring that as a charge against ministers, it was incumbent upon him to point out some part of his Majesty's dominions in which such a force was misemployed; and he begged leave again to say, that the taking the troops from Halifax was not a matter of choice.

Mr. Dundas said, he would pass over the multiplicity of correspondence which the Hon. Gentleman boasted he possessed. It was, he thought, unnecessary to dwell long in the style of a commentator on this part of the subject; but, without meaning to outrage the feelings of those on the *other side* of the House, he maintained, that there was *some reason to suspect* that certain Gentlemen not only pretended to write to their constituents for advice as to their Parliamentary conduct, but even stretched a point by giving them a *hint* how they *ought* to instruct them as their Representatives; and he also remarked, that it might be *suspected* their constituents frequently gave instructions and information which their Representatives were not very willing at all times to hear! The influence of a Member of that House was lately exerted in a very extraordinary manner. He (Mr. Grey) had advised one of his constituents and correspondents, if he wished to oppose the present war, by a petition or memorial in favour of peace, that it ought rather to be offered to the Parliament than to the King! These were some few political manœuvres of the party, who eagerly embraced every opportunity to interrupt the operations of Government for the safety of the community.

With regard to the newspaper from which an extract had been read, he knew neither the proprietor nor editor; therefore could not communicate the Honourable Mover's grateful acknowledgments for the honour with which he had been distinguished. As to *Mr. Anonymous*, alias *Mr. Bluet*, the

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correspondence had been productive of so much risible effect, that it might very well be termed a *Cornish hum*. All the various circumstances formed a curious occasion for irresistible laughter. A letter was addressed to Mr. Bluet. In the whole town no person could be found named Bluet. At last, however, a poor boy of that name was discovered on board a ship, to whom this letter was delivered. When he opened it, and examined its contents, he expressed the greatest surprise and astonishment. "What! a letter from a great *Orator* and a *Member of Parliament*! What can *he* mean? Hearing that the Gentleman is occasionally merry, he intends it, no doubt, as a very *jocular* letter *against me*!" The boy consequently gave it to his Captain, who transmitted it to town; and thus the whole business was brought to light! He condemned the mode in which the Hon. Gentleman questioned the Hon. Admiral; as he did not conceive it was right to take advantage of any officer, who chanced to be a Member of that House, and call upon him to disclose those orders which have been given him in confidence by ministers. If the Hon. Member wished to know what orders were given to the Hon. Admiral, the proper way of obtaining such information would be to move an Address to his Majesty, praying that those orders should be laid before the House; but he did not wish the Hon. Gentleman to make such a motion. With regard to the complaint, that there had been no fleet on the coast of America; he must say, that it was incumbent on the Hon. Member to shew, that there was some fleet unemployed, in order to substantiate his charge.

Upon the whole, when it was considered, that, on the foundation of a narrow peace establishment, we were obliged to fit out a fleet for the Mediterranean, a fleet for the Channel, and a fleet for the West Indies, it would be found difficult to have had one at the time alluded to on the American station, especially when it was considered that the French fleet, which was originally designed for the protection of their West India trade, was only carried thither by adverse winds and accident.

After expatiating on a variety of topics in dispute, Mr. Dundas observed, that the present motion for papers, preparatory to an inquiry, was totally unnecessary; and if the Hon. Gentleman had 10,000 letters, he could not obtain more information than had already been announced. He had no objection to the production of some of the papers moved for; but by this acquiescence he begged it to be understood, that he did not pledge himself to agree to any further inquiry.

Mr.

Mr. Grey desired the attention of the House to a subject which he admitted to be in a great degree personal, but which it was necessary for him to notice and to explain. A letter had been mentioned, upon which he should beg leave to make some explanation to the House, and he hoped for the indulgence of the House while he made it, as it became necessary for him to do so after the use which the Right Hon. Gentleman who spoke last, had made of the letter to which he alluded. If he had been aware that the letter would have been adverted to, he would certainly have brought the letter itself, but he believed he could state the contents of it pretty accurately from memory, and leave to the Gentlemen who wished so much to make use of it, all the advantages they could derive from his public explanation, hoping it would prove satisfactory, and do away all the private calumnies and whispers which had of late been shamefully disseminated on that and other topics.—A Gentleman of the name of *Harrison* came to him, and stated, that he had suffered materially from the conduct of the magistrates of Birmingham last summer, who, in his opinion, had acted oppressively towards him, and therefore he brought his action against these magistrates, in the event of which, however, he was foiled. This man appeared to him to be an honest man; he said he was acquainted with a great many manufacturers at Sheffield, who apprehended they might be ruined in their fortune by this war, and wished to know if they could have any redress if they brought the matter they complained of before Parliament. *Mr. Grey* said, it was not his custom to refuse to a poor man a hearing. It was neither his principle nor his practice to do so: He examined into the case of this poor man, and his opinion was, that nothing could be done for the relief of him by Parliament; but he told him whatever he could do for him personally, he was ready to undertake. *Mr. Harrison* said, *Mr. Grey* could support him in the sale of razors, which he dealt in. *Mr. Grey* bought of him two guineas-worth, and he must observe to the House, they appeared to him to be unexceptionable razors, for “God save the King,” was marked upon one side, and “Long live the King,” on the other, of each of them. *Mr. Grey* then entered into conversation with *Mr. Harrison* on the conduct of the people of Sheffield. He attempted to argue with him that the system of universal representation which they sought for, would not be productive of the benefits he and they seemed to expect from it; but *Mr. Grey* said, he was unable to contend long upon that subject, for he brought a powerful argument against him; no less than the authority of the Duke of Richmond; and whatever *Mr. Grey*

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Grey could advance against the system of universal representation, this man had perpetually at the end of every sentence the Duke of Richmond in his mouth. He said, that one man had as good a right as another could have to be represented, and that if one man was excluded, so might another; and that upon that principle every thing was to be governed by the will and humour of individuals. In short, Mr. Grey said, that all the arguments he could urge were inadequate to the purpose of convincing Mr. Harrison, and he was obliged to give way to the sentiments of the Duke of Richmond, so that at last he was compelled to give up the debate. From the question of equal representation in Parliament, Mr. Grey said, they proceeded to the subject of the present war, which Mr. Harrison declared had produced great distress in Sheffield, and in other manufacturing towns, and he told Mr. Grey it was his intention to present a petition, stating the consequences they felt from the war. He told Mr. Harrison he thought that proper, and added, he believed that if petitions were general, they would be productive of very good effect. He said the same thing to the House, for he still believed that if petitions were general against the war, they would and must be productive of a good effect. The man then asked him, "Whether the petition should be to the King, or to the House of Commons?" He answered, Perhaps to both, but that his opinion was, and always had been, that the best chance for a petition from any body of the people, was to be expected from the House of Commons, because there was the best chance indeed, almost the certainty of its being made known to the Public. After that, Mr. Grey franked for him some blank covers, among which was one to a man of the name of Shipley: This letter, it seems, went not to the person it was intended for, but to somebody else of that name, who transmitted it to one of the Members for Nottingham, and from thence, with due care and diligence, it came to the Secretary of State. This letter was to the following effect: "Citizen Shipley, Having seen Mr. Grey, I find he thinks that a petition ought to be presented, and he wishes that as many petitions should be presented as possible. He thinks that a petition should not be from the people to the King, but to the Parliament; for he says, that if we petition the King, it will be left at the Secretary of State's Office, and no notice will be taken of it." The letter then proceeded to state that 1500 people met at the Globe Tavern in the Strand, and had proved themselves friends to the people.—The letter was signed, "John Harrison, a Sans Culottes."—Mr. Grey said, he was not in the least afraid of the publication of the letter, nor of the

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sentiments he had expressed to this poor man:—It was a good topic for private conversation for some persons in this country. On the contrary, he was happy that the whole was made public. He maintained the principles he had mentioned; they were not new, and they were not his own originally, but they were the principles of men in high situations in the confidence of the Sovereign at this time: Men who were prosecuting with unrelenting severity other misled and poor persons for adopting their opinions. If they had any thing to say against him, let them come forward and propose to censure if they thought fit, and he would meet them. He would not shrink from what he had said.

Mr. Smith, one of the Members for Nottingham, said a few words, exculpating himself from being the person who transmitted this letter.

Mr. Secretary Dundas replied with some humour. He said he was sorry the Hon. Gentleman had been so very unsuccessful in arguing against the Duke of Richmond; he was sorry he allowed himself to be beat on that subject. He should think the Hon. Gentleman might have had a good deal to say upon both sides of that subject. As to the observation of attending to the opinions of the poor, as well as the rich, he had no inclination to deny the merits of it; but perhaps it might be a lesson to the Hon. Gentleman with whom he had conversed so freely, for the report of the conversation was not very accurately detailed by this Sans Culottes:—He was afraid this man's loyalty was confined to his razors.

Mr. Grey said, he was not aware of any great lesson that was given to him by the effect of this conversation. If a man was to come to him the next day, and open a similar conversation, he should, under the same circumstances, conduct himself in the same manner; and as to the report of this Sans Culottes, he did not perceive that he had materially misrepresented anything.

Major Maitland combated the arguments of Mr. Dundas, and maintained that the ordering the troops from Halifax was a matter of choice, and not of necessity. Necessity might, he said, be admitted as a plea in defensive operations; but it could not be through necessity, or in our own defence, that we sent troops to St. Pierre, Miquelon, and Martinique. In fact, the disaster in the last place fell principally upon the regiments drawn from the garrison of Halifax. The conduct of Admiral Gardner appeared to him to require particular explanation, as the neglect of Halifax reflected blame either upon him, or the ministers who gave him instructions. The Hon. Admiral (Gardner), he said, protected the homeward-bound fleet, not as his duty, but out of choice; and when

when he must have known that the French had a considerable force on the coast of America, instead of coming home, he should immediately have proceeded to Halifax and Nova Scotia, and not taken a second-hand authority for the safety of our possessions there.

He denied that the opinion of Governor Wentworth, in a military point of view, could be received as any kind of authority. That Gentleman, it was said, was not to receive any pay in consequence of being Colonel of the fencible regiment, but as it was acknowledged that he had the appointment of his own officers, it was clear that he possessed that which was the most valuable part of such an appointment. This regiment, however, was not calculated for any purpose of defence, and so totally destitute of discipline, as to be unfit for any duty. He was ready to prove at the bar of the House, upon testimony full as respectable as that of Major Hodgson, that the commander in chief refused to employ them in any line of service, and that no part of the institution was approved of by him.

The militia upon which Mr. Dundas rested so much for defence, was unclothed, undisciplined, and unfurnished with any other arms than what each individual could provide for himself. It was a misnomer to call it by that name, it was a mere *posse comitatus*. Such was the panic, indeed, that every person, from the age of sixteen to sixty, was called out, but they received no pay nor clothing. The regular troops were so few, that the Governor and Commander in Chief were not able to furnish themselves with the usual complement of centinels to stand at their doors. As to the 52 guns said to be mounted on different batteries, they formed no sort of defence against an invading enemy, as the 500 men, of which Governor Wentworth's regiment was composed, would be insufficient to man them with the necessary relief, supposing them to have no other employment whatever: And he was persuaded, if they had landed them, there was not a sufficient force at the time to have resisted them; they could have destroyed the arsenal, and done every mischief that they pleased.

These and other strong points he pledged himself to prove, if an inquiry was to be had into all the circumstances of this subject.

Admiral Gardner said, the manner in which Gentlemen alluded to him in the course of the debate, seemed intended to provoke explanations which it might be improper to give. He justified himself as to his conduct in the West Indies, and said he was ready to afford every protection in his power to any

part of his Majesty's dominions that required assistance. A young Member of Parliament, and unaccustomed to public speaking, he was nevertheless ready to answer directly any question which his duty required of him. Much older as a member of that profession to which he had the honour to belong; he was too well acquainted with his duty as a seaman, entrusted with command, to be drawn into explanations which propriety did not warrant. If he had had reason to think that Halifax was in danger, he should have thought it his duty to repair to its assistance. For the four months, however, that he remained at Barbadoes, from April to August, though he had maintained a constant correspondence with that colony, he never heard a word of apprehension for its safety.

Mr. Sheridan replied to all the observations of *Mr. Dundas*, and maintained that nothing could satisfy the Public but a fair inquiry into the whole of the subject. He did not deny that *Mr. Dundas* had the information he mentioned; but the question was, whether the information was correct, because there was other information of equal, and possibly of higher probability, that contradicted the most material parts of that of the Right Hon. Secretary. He particularly wished to know, what had been carefully concealed, namely, whether, after the *Winchelsea* reached Admiral Gardner, that officer had acted according to his own discretion, or whether he had been tied up from assisting Halifax by the orders and instructions of Government. The urgent necessity of his presence at home had, indeed, been stated as the cause of his neglect at Halifax; but it did not appear that the necessity was at all pressing, since he came home at perfect ease and leisure. Nor could the service in the Mediterranean be alleged in vindication of his return and abandonment of Halifax, since the English fleet sailed for the Mediterranean in May, and Admiral Gardner did not arrive in Europe till October. If the Admiral obeyed his orders, he must approve his conduct as far as it personally related to him; but if he had a discretionary power, he must strongly condemn it. The trade to the Mediterranean was certainly unprotected; nor was he ready to give that degree of implicit faith to Admirals and Generals which they might expect.

It had been asked, who could attack Halifax in the winter? And from this it would be inferred, that the Admiral, in leaving it to its fate, had left it in no danger; but he must inform the House, that, during the last forty-five years, there had not been more than three severe frosts; and it might be fairly calculated that the harbour was not frozen more than once in ten years. It was, therefore, a mistake to suppose that the severity of the winter would baffle the efforts of the French. It had been

been asserted, that the House was pretty generally agreed as to the information respecting Halifax, but he thought there was some difference in it; for he had heard nothing that night respecting the nine thousand strong athletic young fellows, about whom the Right Honourable Secretary had on a former occasion boasted so loudly. However, he supposed we should have it all in the papers: Notwithstanding the opinions of others, he could not but conceive there was a wide difference in their information; and, therefore, he thought the most proper way of coming at the truth would be to sift the matter regularly by going into a solemn inquiry.

That Governor Wentworth had received no emoluments on account of his new corps, had been asserted with triumph, and he certainly was not able to meet it with a direct contradiction; but although Governor Wentworth might not receive a direct income, yet the patronage of the regiment, by which he might provide for relations and dependents, was not to be reckoned as nothing. With equal exultation had it been stated, that 800 of the inhabitants of Halifax had thrown themselves in the way, and shewn a preference of being employed as military, rather than of being exempted; but the Right Honourable Secretary seemed not to be aware, that in that boast he had disclosed a fact highly alarming to this country, and dangerous to the fidelity of our colonies; he had disclosed, that in the hour of danger our colonies must depend upon themselves for protection; and if once they were confirmed in that belief, and were also trained to the use of arms, their affection for this country must proportionably diminish, and even their allegiance become equivocal. He wished the Right Honourable Secretary had assigned any other reason for abandoning Halifax; that he had even said it was by the neglect or mistake of Government, or by accidental necessity, which should be prevented in future; for any reason he should have been more inclined to admit, than one which seemed so mischievous in principle, and so dangerous to the safety of all our colonial possessions. He denied that the regular troops in Halifax had in July exceeded 350; and repeated his assertions respecting their feebleness. With regard to the calling out of the militia, he denied that Government could claim merit on that account, since it was an act of the Assembly; and so far from resembling our militia, it was simply the *posse comitatus*, a number of raw undisciplined men, who could not well be kept together, or who, if forced to remain always on the defensive, might discover that they were under no particular obligation to this country, and might therefore entertain ideas of separating.

Commodore

Commodore George's good fortune in escaping the French, Mr. Sheridan observed, had been related as meritorious to the Commanders in Halifax; but although they were fortunate, he could not say they were wise. When Commodore George sailed for the West Indies, there were two French line-of-battle ships and several frigates in the Chesapeak or at New York, and it was indeed singularly fortunate that he was not captured by them; for if he had correct information, he had a right to conclude that there was much more probability of his falling into the enemies hands than of escaping.

As a refutation of the assertions of the vigilance of Government in taking measures of defence at Halifax, Mr. Sheridan said, that though that colony had been deprived of her strength early in the summer, yet no effective measures had been taken till September: Even on the 5th of August no attempt had been made, not a militia man called out, nor a gun mounted on the batteries; nor was it probable that any measures of precaution would have been even taken when they were, had it not been for the alarm created by the arrival of the French in the Chesapeak. If therefore the House would consent to the production of the papers, he was ready to follow the production up with an inquiry; he was ready to confront Major Hodgson's remarks with a witness at the bar, whose talents, as an engineer, stood as high as those of any other Gentleman in that line. He would not accuse the Right Honourable Secretary, or even Governor Wentworth, of a concerted design to impose upon the Public by the information which had been produced in that House; but he was firmly persuaded, that if no imposition was intended, a great mistake must have arisen somewhere. He had been told, and circumstances led him to believe he had been told truly, the dispatches of Governor Wentworth, which had been produced as authentic statements of the situation of Halifax, were written with a design that they might fall into the hands of the French, for at that time almost every vessel sent to sea had been captured; and certainly it would have been indiscreet to have run any hazard of making the enemy acquainted with the really wretched state of the place; for so true was this, and so great was the alarm, that what had been described as arising from excessive loyalty, was nothing but the consequence of anxiety for their own safety; an anxiety which induced the better sort of people to take spades in their hands, and to work on the fortifications like common labourers, in order to inspire and animate the populace by their activity and their example. They said, We are willing to erect works, and defend the place, if you will give

give us a director. But all this vigour in the inhabitants was merely produced by the criminal neglect of Government, which had lowered the military establishment in the time of such imminent danger even below the peace establishment.

Mr. Sheridan observed, that the Right Honourable Secretary of State had advanced a very extraordinary assertion, when he said that Halifax was as well defended as if the two regiments had remained. What were the substitutes? a fencible regiment, which never did duty, consisting of 350 men, and a raw militia, if it could be called by that name, chiefly composed of men dragged from 200 miles up the country; raw and undisciplined; in whose hands a gun was not put till the French fleet had returned to Old France. Mr. Dundas had observed, that it was politic to teach a young colony to defend itself; he believed, if a colony found that the mother-country acted upon a principle in this respect, they would learn to defend themselves, but in a manner very different from what the Hon. Gentleman meant. Still, however, if it was maintained that Government had done its duty, he would ask what occasion was there for all the alarm? If there was a sufficient quantity of Government forces to defend the place, why call out the militia? These two statements of ministers contradicted each other, and clearly exposed the fallacy of their assertions. How could they boast of the sufficiency of the regular military for the defence of the place, and yet boast that the exertions of the inhabitants were so animated and extraordinary? What occasion was there for those exertions, if the military really was so strong? But a proof still more convincing was, that many persons removed their effects. In London the insurance of property in Halifax was 12 and 15 per cent. and at last it could not be insured at all, so desperate was the situation of that country considered. Mr. Sheridan took a review of the other assertions which had been advanced respecting the military state of Halifax, and said he would produce a Brigadier General as an evidence in support of his statements. He concluded by declaring, that he would not be satisfied with such garbled extracts of dispatches as Administration might probably be inclined to give; that he must have a full and fair detail; that if different intelligence from his had been received, he begged it might be brought forward. He challenged every man in the country to produce such letters as related to the subject; and declared, that if the House would enter into an ample inquiry, and not content themselves with partial statements, it would require all the pomp of language, all the lofty declamation, all the verbosity and ambo-dexterity of the Right Hon. Gentleman,

man, the Chancellor of the Exchequer, to save Administration from the severe censure, not only of Parliament, but of the Country.

Admiral Gardner arose to explain what he knew of the French fleet, which had so frequently been alluded to in the course of the debate. At the time that he was preparing to convoy the Leeward Island fleet, he heard that the two 74-gun French ships, and five frigates, were to convoy the West India fleet to France. He had no reason to suppose, and the event justified his opinion, that they would sail to America; and he fully expected to fall in with them in his passage from the West Indies.

Mr. Sheridan said, he was satisfied with the observations of the Honourable Admiral, as far as they went to the point of intelligence of the destination of the French fleet; but he condemned the whole conduct of the English fleet, for want of prudence upon that expedition. If the Honourable Admiral had no discretion, but had positive orders for what he did, no blame could be imputed to him. If he was allowed to judge for himself, he had acted indiscreetly: He had no right to catechise the Honourable Admiral, but he was bound as a Member of that House to make these observations, which the face of the fact and its circumstances suggested.

Mr. Speaker put the question on *Mr. Sheridan's* first motion, which was carried.

Mr. Sheridan moved, "That there be laid before the House, Copies of all Letters relative to the protection of the trade of Halifax during the present war."

Mr. Secretary Dundas said, he would not agree to that motion, inasmuch as it was the motion of a former day only repeated. It was therefore withdrawn.

Mr. Sheridan next moved, "That there be laid before the House, Copies of all Letters, and Extracts of Letters from Gen. Ogilvie, relative to the state of Nova Scotia and New Brunswick, since the commencement of the war."—Ordered.

"That there be laid before the House, Copies of the returns of all the effective forces at Halifax during the year 1793."—Ordered.

"That there be laid before the House, Copies of the Correspondence which had taken place between the King's ministers and Gen. Ogilvie, relative to Governor Wentworth's corps."—Ordered.

"That there be laid before the House, Extracts from the Journals of packets from Halifax since the commencement of the war, communicated by the Post Master General to the Secretary of State."—Ordered.

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Mr. Sheridan, after a few strong prefatory words, moved, "That there be laid before the House, a Copy of a Memorial presented that day by the merchants of the city of London, who traded to Nova Scotia, with regard to the state of defence at Halifax."

Mr. Dundas said, he never heard language from a Member of that House, of which he conceived the Member ought to be more ashamed. It was certainly true that such a memorial had been presented to him that day, about three o'clock in the afternoon, giving him certain information with regard to the fleets of the enemy, and what measures the merchants concerned in the trade of Nova Scotia conceived might be proper to be adopted. But he submitted it to the candour of the House, if any man, filling a public situation, could possibly, consistently with his duty, produce such a memorial to the House. A number of persons had thought proper to lay before a Minister of State, what might contain matter of serious importance, and all at once that was called for to be made public. Suppose, for instance, it contained some information relative to the sailing of a fleet from Brest? He did not say this paper did any such thing; but supposing it did, was that matter fit for public discussion in that House? Did the Honourable Gentleman mean to say that such a paper should be laid on the table of the House of Commons upon barely asking for it? Let the Honourable Gentleman ask his own candour, what that minister would deserve who should comply with such a request, when, by complying with it, he might counteract all the good intended to be produced by the thing itself? He owned he should be ashamed to agree to such a proposition; for if he had agreed, he should think himself unworthy of the confidence of Parliament. Besides, the only regular mode of Parliamentary proceeding was, to move an Address to his Majesty, for the production of such a paper; and it was obvious, that his Majesty could not have given to his servants any commands upon that subject, since the paper itself had not been before him. If the Hon. Gentleman was aware of this, he certainly ought not to have come forward with such a motion, of which a man of the Hon. Gentleman's good sense ought to be somewhat ashamed. *Mr. Dundas* said, he made no scruple to enter his protest against the delivery of the memorial, because, were he to deliver it, he should hold himself unworthy of the confidence that had been reposed in him.

Mr. Sheridan contended, that the very circumstance of the merchants asking how they were to be defended in future, was pretty strong evidence that they were dissatisfied with the manner in which they had hitherto been defended, and that mini-

sters were either unwilling or unable to lay down any plan for defending them; else, why should a memorial be presented, asking how they are to be defended in future? He stated this to shew that ministers, in the opinion of these merchants, had been either regardless of their defence, or too ignorant to know in what manner they ought to have been defended. A memorial was a public paper which, unless a reason was assigned for withholding it, ought to be laid before Parliament.

Mr. Fox said, that before *Mr. Dundas* had made use of the language with which he had thought proper to begin his speech, he should have considered whether he had any argument to bear him out on that ground. He professed that he, for one, was perfectly unacquainted with the contents of the memorial, and he believed *Mr. Sheridan* to stand in the same circumstances. He wondered how the Honourable Secretary arrived at the inference he drew from the motion before the House. How was the Mover to know that the memorial he asked for, contained such delicate matter as he had hinted at? Was there any thing on the face of the paper itself, as he at first mentioned the contents of it, to the effect he at last mentioned? There was one thing, however, he was glad to find from this discussion, namely, that all we had heard of the impossibility of obtaining information of the intentions of the French, was without foundation; that was only an argument made use of for the shift of the moment; for they had been told of the possibility of our gaining intelligence of the destination of the Brest fleet: A circumstance they never should have known, but for the candour and ingenuity of the Secretary of State. He should have thought we could not have gained any intelligence whatever from France, because they had on former occasions heard from ministers, that it was impossible; he was very glad that had only been the pretence of the moment. But there was something unfair in this mode of proceeding, on the part of the minister; it was at war with all the principles of justice. There was a rule in law, *Mr. Fox* observed, founded upon excellent grounds: And he contended, that it was unfair and unparliamentary to read part of any paper in that House, except the whole was before them, in order that they might see how far the context bore out the particular passage. He took it for granted, that when ministers refused any information that was called for, by which they may be inculpated, that refusal was *prima facie* an acknowledgment of their guilt. He would say, therefore, that, upon the face of the proceeding, additional reason was afforded to prove the propriety of the motion.

If this memorial did actually contain what the Secretary of State alluded to, the House undoubtedly would not persist in the inquiry; but what in God's name was there to be ashamed of? His Honourable Friend knew nothing of the contents of the paper, as opened in the second speech of the Right Hon. Gentleman, any more than he did himself: All that was conveyed by the first opening of it was, that the memorialists were dissatisfied with the protection they had already received. But this was of a piece with the whole system of Administration; they gave part of any thing they pleased, and refused just as much as they pleased, of any document; and these were the equal terms of which they so much boasted, as those on which they met their opponents. If that system was persisted in, there would be an end of all inquiry in that House; since all the means, by which inquiry could be effectual, were denied; but the result would be different from what ministers expected; for he took it to be a principle, in itself clear and undeniable, that when a charge was made, and all inquiry into its merits refused, he who refuses the inquiry must, *pro tanto*, be held to admit the fact. Let them go into the inquiry, and then let the Public judge whether the accusation be true or false; and let the disgrace fall where it ought to fall, either on the justly accused, or on the false accuser: If ministers were allowed to refuse inquiry, because they deny the fact roundly, and say there is danger in the examination, there was an end at once of all examination, and every thing was a mere mockery. But this was the system lately adopted by ministers, and it was upon this they built the whole of their conduct. They availed themselves, from day to day, of the alarm that had gone forth, and which they had themselves propagated, to bring forward new principles of royal prerogative unknown to our constitution. Hence all the new-fangled maxims, concerning the right of landing foreign troops without the consent of Parliament: Hence all the doctrine of submissive obedience to authority, and contempt for all popular rights and privileges. It was thus they sapped all the principles of the constitution, and proceeded so rapidly to its ruin. They took advantage of the alarm of the hour, for the purpose of laying down precedents, that, if submitted to, would soon extinguish all freedom in this country, in which, unfortunately for the liberties of Englishmen, they succeeded but too well; and if they were not strenuously opposed, it would soon be impossible for any man to deliver his sentiments; but until they had put an end to the freedom of speech in that House, he should persist in exposing their aims. He would add, that by their conduct in this, and all motions for inquiry, they in-

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directly

directly admitted that they knew all the facts alleged against them to be true. While he had the honour of a seat in that House, Mr. Fox declared, he never would cease to condemn a doctrine, that cut up by the roots the most valuable part of our constitution.

The Chancellor of the Exchequer took notice, that Mr. Fox had spoken with great warmth upon the single circumstance of the memorial, concerning which he began by admitting that it ought not to have been produced. This was the short state of the case. When his Right Hon. Friend (Mr. Dundas) had said that the Hon. Gentleman (Mr. Sheridan) ought to have been ashamed to have moved for the memorial, he argued upon the possibility that that Hon. Gentleman might have been acquainted with the contents of that paper. He for one was ready, with the utmost coolness and deliberation, to pronounce that Mr. Dundas was correct in asserting that Mr. Sheridan's motion and observations were such as he ought to be ashamed of. This was not a time for him to debate upon those prerogative points to which the last speaker had alluded; but he could not pass over the observation of Mr. Sheridan, that his Majesty's ministers were the most improper persons to suggest to that House the line of their proceedings. This was unquestionably a very novel doctrine, the result of the Right Hon. Gentleman's own reflections, or arising from his partiality to a system that had for some time and at present prevailed in a neighbouring country. In France it was decreed that no person employed in the executive government could hold any seat, or deliver any opinion in the deliberative and legislative departments of the state. He remembered there was a law passed at one time in England, nearly to the same effect; but that law was repealed before the arrival of the period when it was to be carried into execution. From what his Right Hon. Friend had stated, it was apparent that that memorial related to the distribution of forces for the protection of our trade in future. If the Hon. Gentleman opposite him was not acquainted with its contents, or was not satisfied of its relation to either past or future operations, he was of opinion that the Hon. Gentleman was a little too hasty in bringing forward his motion; because, as his Right Hon. Friend had only received it that day, and had stated that he had not found time to peruse it, it was impossible, therefore, that he could have laid it before his Majesty; a circumstance which, if it had not been complied with, it became impossible for his Hon. Friend to lay it before the House. Was the Hon. Gentleman opposite to him aware of these circumstances, and was he not ashamed in consequence to have brought forward this motion? *The Chancellor of the Exchequer* said, he was perfectly

perfectly convinced, that every other Member in that House, being in possession of the information he had stated, would have been ashamed to make such a motion. A Right Hon. Gentleman (Mr. Fox) seemed to throw out, that ministers were desirous of prescribing the rule of parliamentary conduct and public duty upon certain occasions. This was not at all to the point. The question was, whether there was such suspicion arising out of all the circumstances as to outweigh all the authorities and documents that had been advanced? The Right Hon. Gentleman was perfectly at liberty to say, that this system was coupled with prerogative; but it would not deter him from stating his opinion. With respect to what the Right Hon. Gentleman (Mr. Fox) had stated, relative to *new principles*, viz. that no ministers were suffered to argue in a certain place for the executive power, he could only say, that if that Right Hon. Gentleman felt himself disposed to make a motion to that effect, he trusted that he would extend it, not only to the present ministers, but to all *ci-devant* ministers.

Mr. Sheridan observed, that the House seemed to him to be in a very thriving condition, when he looked around him. He believed the Chancellor of the Exchequer had a strong attachment to two things in it—one for his place, and another for speaking. He confessed that he was very susceptible of the emotion of shame, whenever he did any thing which could expose him to fair reprehension; though he always endeavoured as much as possible not to deserve it. He took to himself no shame for this character of insensibility, which should set the ingenuous blush upon his countenance in contrast with the impenetrable feelings of the Right Honourable Gentleman opposite to him (Mr. Dundas), who reminded him of an expression of a person in a Play, who says, "*There sits a good man, who is ashamed of nothing.*"

Whether the French were right in excluding ministers from a seat in the Convention, was not his business to argue; nor did he think, when the superior advantages of the British constitution were acknowledged, that they should be ascribed solely to that particular circumstance. What he meant was, that when Parliament was employed in discussing its own privileges and rights, it was not to be schooled and tutored by his Majesty's ministers; and he would not scruple to repeat, that their votes and divisions would be as free and independent, if they had not so liberal a distribution of *placemen* and *pensioners* amongst them.

He professed himself to be perfectly unacquainted with the contents of the memorial; but the Right Hon. Secretary of State had furnished him with the information, otherwise he should

should have known nothing of its reference to the preparations at Brest, or any other of the French harbours. If the Right Hon. Gentleman supposed him to be informed of the contents, he remarked, that it did not augur well for the persons who had presented the memorial, that ministers should accuse them of asserting a falsehood; for they certainly made such an accusation, when they acknowledged that the merchants had stated that the contents of the memorial were unknown to any others than those who signed it; and yet ministers said, they supposed the whole to be very well known to him. From the statement given, he was ready to admit, that the memorial was such as would be improper for public disclosure.

The motion was withdrawn.

Mr. Sheridan proposed to know whether any opposition was intended to the inquiry, which he meant to institute upon the papers that were voted? He professed himself ready to move that inquiry immediately, or to defer it to a more convenient day.

The Chancellor of the Exchequer reminded him, that the papers were not yet upon the table, and that probably Gentlemen would wish to peruse them before they decided whether there was any ground for investigation.

The other Orders of the Day were deferred.—Adjourned to Monday.

HOUSE OF COMMONS.

MONDAY, *February 24.*

Two Petitions were presented against the Eau-Brink Canal Bill, which were ordered to be read the second time on Thursday the 27th, on a division of 31 to 16.

TRIAL OF MR. HASTINGS.

Mr. Anstruther moved, "That a Message be sent to the Lords, requesting them to make out a Warrant for examining Wm. Larkins, Esq. as a Witness on the Trial of Warren Hastings, Esq." The motion was agreed to, and Mr. Anstruther ordered to carry the Message to the Lords.

HANOVERIAN TREATY.

Mr. Whitbread, jun. moved, "That an humble Address be presented to his Majesty, that he will be graciously pleased to give directions that a copy of the Tariff by which the pay of the subsidized Hanoverian troops is regulated, be laid before the House;" which was agreed to.

Mr. Whitbread then gave notice, that on Thursday the 6th of March he should make a motion relative to the Treaties on the Table.

The Chancellor of the Exchequer wished to be informed, on what particular point of the treaties the motion was to be founded?

Mr. Whitbread said, the information asked for could be given with more precision at another time.

MR. ATKINSON.

Mr. M. A. Taylor gave notice, that on Monday the 3d of March, he would bring forward a Petition from Mr. Christopher Atkinson, praying that a resolution of the House, by which that Gentleman was expelled in consequence of his having been convicted of perjury, might be expunged.

The Chancellor of the Exchequer asked, on what grounds he meant to rest the prayer of the petition?

Mr. Taylor replied, that he meant to move that the whole should be referred to the consideration of a Committee.

MR. PALMER'S SENTENCE.

Mr. Sheridan rose to present a petition from the Reverend Fysche Palmer, an unfortunate Gentleman who some time since was Fellow of Queen's College, Cambridge, and was at present on board a transport for Botany Bay, in consequence of a sentence of transportation passed upon him for sedition by the High Court of Justiciary in Scotland. The petition stated, that the sentence was *unjust, illegal, oppressive, and unconstitutional*; and prayed such relief as the House in its wisdom should see fit to afford. *Mr. Sheridan* added, that as far as he had been able to examine the sentence, his opinion, with regard to the illegality of it, was precisely similar to that of the unfortunate sufferer; and he hoped that no objection would be made to his presenting the petition previous to the motion which his Hon. Friend was that day to bring forward. The petition was dated some weeks prior to the time of presenting it, which he conceived, on due consideration of the circumstances that had arisen to occasion the delay, could be no objection to its being received. It had been put into his hands the preceding day, and he then took the first opportunity of moving for leave to bring it up.

The Chancellor of the Exchequer declared, that he could by no means agree to the bringing forward of this petition, according to the proposal of the Honourable Gentleman. This was a petition against the sentence of a court of justice, solemnly and deliberately pronounced. The petition appeared to him to be of a most extraordinary nature, and one which he should hold it his duty, in the first instance, to oppose; for, there never had been in any case, as far as his recollection served, an instance of an application to that House, to inter-
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pose its authority between the judgment and the execution of a sentence pronounced by a competent court; the proper and regular mode of application for mercy would be to the Crown.

If it could be shewn that the Judges had acted either illegally or unjustly in the proceedings, the House of Commons might interfere by an Address to remove them, or by an impeachment. But in this case a man, tried, convicted, and sentenced by a competent tribunal, when the sentence is about to be carried into execution, applies to the House of Commons to travel out of their province, and interfere with the duties of the executive power: After sentence was passed, all that could be given him was mercy, which was vested solely in the Crown by the constitution of *England*. He considered the motion equally unprecedented and improper.

Mr. Sheridan said, the petition came perfectly within the rules of the House: It contained no application for mercy; it complained of a sentence contrary to law; and surely it would not be contended, that the House of Commons was not the proper place to resort to for redress against such a sentence. That a petition for mercy must be addressed to the Crown he was not to learn; but, independent of that, the House, on account of the illegality of the proceedings, was not only competent, but had also a right, in compliance with their duty, to interfere, and by an Act of Parliament reverse the verdict.

Mr. Fox said, he hoped the Right Hon. Gentleman would not persist in his objection to receiving the petition. The Right Hon. Gentleman had observed, that no appeal lay to that House to prevent the execution of a sentence, though complained of as illegal, unjust, and unconstitutional. It might be possible that he had himself totally mistaken the British constitution; but if he had not done so, *Mr. Fox* said, he would maintain that it was a principle, not generally but universally admitted, that a petition might be presented to the King in Parliament, in other words, to the Legislature, against the decision of any court of justice, from which there was no appeal by law to any court of judicature. In pursuance of this principle it was, that, on the opening of every session, the House appointed a Committee upon Courts of Justice, which was always considered to be sitting and exercising a perpetual and vigilant superintendency over all the inferior Courts, that the people might know that their representatives were ready to receive complaints for which redress could be obtained in no other place. In the case set forth in the petition, the House well knew that there was no appeal to any Judicial Court; they could not therefore refuse to take the petition into consideration

tion without deserting their duty. And it was certainly high time for the benefits of the English laws to be extended to all parts of the United Kingdoms, when it had been determined that there lay no appeal from the Court of Justiciary in Scotland to the House of Lords in England. If they were also exempt from the appellant jurisdiction of the House of Commons, what remedy was there for the utmost possible abuse of the principles of justice in their proceedings?

Supposing that, after sentence was pronounced, the House of Commons had been applied to by petition, stating unanswerable allegations of fact, to interfere and reverse it in the case of Lord Russell or Algernon Sydney, he fancied it would have startled even the men in power of those times if they had been answered as they were, "We acknowledge that the judgments against them are illegal and unjust; but it would be unprecedented in us to interfere while the sentence is in process of execution. Let them be beheaded, and then we will reverse the sentence completely fulfilled."

The Chancellor of the Exchequer had said, that an application to them in their legislative capacity was irregular and improper; in such a declaration the Right Honourable Gentleman had been mistaken: In the present case it was to be observed, that it had been decided, that no appeal lay to any superior court of law; consequently no alternative remained for a man complaining of the illegality of a sentence, but a petition for its reversal to the legislature. A petition to his Majesty for mercy was of a nature totally different; it generally sat out with admitting the legality of a sentence, but prayed an abatement on the ground of mercy. The only resource, as far as he could see in the present instance, was the one that had been taken. And whatever might be the opinion of the Right Honourable Gentleman with respect to the particular merits of the case, he trusted that he would not attempt to give so deep a wound to the constitution as refusing to hear it would certainly be.

The Chancellor of the Exchequer said, he believed there was not a single instance of such an application to that House. He admitted that it was the duty of Parliament to inquire into and rectify the abuses of the Courts of Justice. But in what manner? not as a court of appeal, but as a court possessing the power of inflicting censure and punishment on those who abused their judicial authority. To receive such a petition as that offered, would form a precedent for making Parliament a regular court of appeal, and confound the legislative and judicial functions, the distinct separation of which had been justly held to be one of the greatest advantages of the British constitution.

constitution. The proper method of proceeding, as it appeared to him, and indeed the only regular mode, would be, by moving to impeach the judges by whom the sentence had been pronounced. At the same time he confessed, he did not at present wish to deliver any decided opinion upon the subject, not having formed one. His only anxiety was, that substantial justice should be done; and as this was a point of very great importance, of which no previous notice had been given, and as he wished to examine more into the precedents on the subject, and not to hazard a rash opinion, he trusted a motion he should propose would meet with no opposition, *viz.* "That the debate be adjourned till Thursday or Monday; but as Thursday had some business allotted to it, and was rather too early, till Monday the 3d of March." This he expected would meet with general approbation, as no doubt Gentlemen on both sides would wish to consider more deliberately a point of such momentous importance.

Mr. Fox said, he would not oppose the question of adjournment; because the point itself undoubtedly called for mature consideration. He was not prepared to state what precedents there might be found, which would support an application to that House for its interference for the suspension of execution of judgment after sentence passed; but undoubtedly there were precedents for reversal of judgment after execution; and a man must be of a very curious turn and composition of mind, who would support the one and resist the other. He did not imagine that his Hon. Friend would object to the delay, as no doubt he would wish to have before him all the knowledge which could be collected on the subject. He had no objection himself to the adjournment proposed, but he thought the decision of the House on this point, so material to the discussion of a motion which an Honourable and Learned Friend of his (*Mr. Adam*) intended to make, that he would recommend postponing that motion, till the House had determined respecting the other.

The Chancellor of the Exchequer said, the Honourable and Learned Gentleman would judge for himself of the time most proper for him to bring forward his motion: But as the interval before Thursday might be too short a time for maturely considering the question of the petition, he should wish the debate upon it to be adjourned till Monday next.

Mr. Stanley rose, to state his reasons for agreeing to adjourn the debate; but appearing to be rather proceeding to enter into the general merits of *Mr. Palmer's* case, he was called to order by the Speaker.

Mr. Sheridan said, after the good effects that had arisen,

or rather were likely to arise in the present instance from reconsideration, in consequence of what had been said by his Right Honourable Friend (Mr. Fox), he could have no manner of objection to the adjournment. It behoved the House, however, to consider if the motion of which notice had been given for that day, should be postponed, as he thought it ought to be, what would be the state of it on a future day. If his Honourable Friend (Mr. Adam) were to go merely into the record, that he might do at any time with the record before him. But the record had been refused. His Honourable Friend would therefore be under the necessity of going into the whole case at large. He therefore wished that the House would also reconsider their refusal of the record, without which, when the motion came before them, they would be arguing in the dark.

Mr. Francis wished to call the attention of the House to a point, which, though of importance, had been overlooked by Gentlemen on both sides, *viz.* the actual situation of the unfortunate petitioner. He hoped his Majesty's ministers would not put in execution the sentence till the petition had been discussed; and by that means deprive the petitioner of all possibility of benefit or advantage from the result of the discussion.

Mr. M. A. Taylor said, that, after the great doubts that had been entertained by persons competent to give an opinion on the subject, both with respect to the relevancy of the libel, and the legality of the sentence, the execution of that sentence ought to be suspended till the House had come to some decision on the various relative points in question. Antecedent to that, it would, in his mind, be indecent in ministers to suffer a single step to be taken towards the execution of the sentence. *Mr. Taylor* said that it was not a few whispers, as had been insinuated, but the serious doubts of many men of great reputation in the law, that had been held, of the legality of this sentence, which ought to weigh in the minds of the House. He could not therefore agree to the adjournment, without first receiving some assurance, that the execution of the sentence should be postponed.

Mr. Dundas begged the House not to adjourn with an impression on their minds that Government intended the smallest delay in the execution of the sentence. As far as concerned him, the sentence had been carried into execution some time, for the warrant for the transportation of *Mr. Palmer* had passed the Council Board, and he, with other convicts, was already received on board the transports appointed to carry them to their place of destination. If the execution of it were to be de-

laid in consequence of such a petition as that offered to the House, applications of the same sort might be expected from every other person in a similar situation with Mr. Palmer. The opinion of the Hon. Gentleman (Mr. Taylor) upon the legality of their sentences, had been given as a matter of authority; they were not, however, to be directed by presumed authority, but by reason; and therefore, he should consider it as no other than the Honourable Gentleman's own opinion, against which, with great deference to him, he was ready to oppose his own; for he had not yet heard a single argument which had induced him to alter an iota of those sentiments which he had declared in that House to be the sentiments that he entertained on the subject, when it had been first alluded to, and which he was ready to support, whenever Gentlemen should be disposed to bring forward the discussion; viz. that the sentence was legal; and that the Court of Justiciary, in passing that sentence, had exercised a sound discretion. He condemned the conduct of Gentlemen on the opposite side as unnecessarily tardy and procrastinating, since they had neglected the business they had undertaken for so long a time, and now called upon him to stop the execution of the sentence. If they had been so eager, and in any expectation of obtaining the interference of the House to have the sentence respited, they might have offered the petition at any former time since the meeting of Parliament.

Mr. M. A. Taylor said, that where a petition for mercy was presented to the King, it was always customary to suspend the execution of the sentence till the petition had been decided upon. Surely the same rule ought to be observed where a petition was presented to Parliament complaining of a sentence as illegal.

Major Maitland reminded the House, that the petition was dated the 3d of February. It was to be observed, therefore, that the motion of which his Hon. Friend (Mr. Adam) had given notice, and which was debated a day or two after, if it had succeeded, would have rendered the petition unnecessary, because notice was given of an intention to introduce into the Bill for granting an Appeal to the House of Lords from the Scotch Criminal Courts, a clause with a retrospective view to the cases of Mr. Palmer and Mr. Muir. That motion had been thrown out in a manner in which he believed no motion of equal importance had ever before been rejected. It had, however, induced the petitioner to keep back his petition, which had been given the preceding day only into the hands of his Hon. Friend, who offered it to the House. The reason of the delay, he believed, was the advice of Mr. Palmer's friends,

friends, grounded on the expectation of some relief, which might have been expected by a Bill to be proposed by his Hon. Friend (Mr. Adam).

Mr. Adam said, it afforded him some satisfaction, that the Chancellor of the Exchequer had not persisted in the hasty rejection of the petition which he had first suggested. Let that Right. Hon. Gentleman but recollect his own conduct on the continuation of the impeachment against Mr. Hastings, and he would see that he could not have made such a figure in the debates on that subject, if the principle had not occurred to him, that no case ought to be finally decided in the Court in which it originated. Let him recollect that this case of Mr. Palmer was a case in which there was no appeal to any Court of Law, and that Parliament was the only place to which the petitioner could look for redress. When he gave notice of the motion which the House had unfortunately rejected, he had stated in express terms, that it was his intention to include the cases of Mr. Muir and Mr. Palmer. The petition was of so much importance, that, with all the inconvenience to which he must expose himself, he would defer making the motion he intended to have made that day until the House had decided upon it. He wished, however, to obtain that decision on Thursday the 27th, because the transport in which Mr. Palmer was embarked waited only for a convoy. If the transport should fail before the decision of the House upon the petition, there would be no occasion to search for precedents; for it would not then be an application for the interposition of the House between sentence and execution, but for the House to reverse a sentence after execution.

Mr. W. Smith said, that to deliberate on Mr. Palmer's petition, and in the mean time to suffer his sentence to be executed, would be neither more nor less than a mockery of justice.

Mr. Fox declared that he felt himself particularly interested in the turn which the debate had latterly taken. He had not paid any visit to Mr. Palmer, whom he had never seen; but had conversed upon the subject of his case with Gentlemen who had at different times had interviews with him. Though he maintained the power and the duty of Parliament to superintend and control the juridical proceedings of other Courts, yet he thought it prudent to resort to that control in cases of necessity only. As his Hon. and Learned Friend (Mr. Adam) was about to bring in a Bill for allowing an Appeal from the Court of Judiciary to the House of Lords, in which the Committee would be instructed to give it a retrospective operation

operation on all the sentences of the year 1793, it might be best to wait for the chance of an Appeal to the regular Supreme Court of Justice. Of the subsequent delay he could say nothing. A petition, little more than four weeks after the meeting of Parliament, was presented to the House. Ministers desired time to consider of that petition; and it was at least incumbent upon them to suspend the execution of the sentence, as long as they themselves required to consider of a petition complaining of the illegality of the sentence. A Secretary of State, if a petition had been given him to present to his Majesty in behalf of a condemned criminal, and he had doubted of the propriety of presenting it, certainly would not hesitate in delaying the execution till his doubts were satisfied. He had no reason to expect at the time that his Friend's motion would be so readily disposed of, and he was not sure that the advice he gave might not have influenced in some degree the conduct of Mr. Palmer and his friends in drawing up the petition; that as little time as possible might be lost, he moved that the debate be adjourned to Thursday the 27th.

He suggested at the same time, that the motion which Mr. Adam gave notice of for this day, might be deferred till the petition was disposed of.

The Chancellor of the Exchequer said, he had no objection to deciding on the petition on Thursday, if that was more agreeable to the general sense of the House; but he could see no reason for suspending the execution of the sentence.

The Solicitor General thought the question of infinite importance, and such as required great consideration; and he feared that it could not receive the attention that was due to it by Thursday; he therefore wished a later day should be appointed for the discussion.

Mr. Adam declared he spoke without the least knowledge of the unfortunate persons on board the transport. He spoke independently of every consideration, except that of his duty as a Member of that House, and in that view it did seem to him that this was a question on which the House ought not to hesitate a moment, either to agree to delay the sailing of the vessel, or to take the subject into consideration as early as possible. Mr. Adam said he acquiesced in the opinion of his Right Hon. Friend (Mr. Fox), with regard to his intended motion, which, though given notice of without any knowledge of the present petition, or any connexion therewith, yet was a question which would considerably influence his motion.

Sir George Cornwall said, he was sorry to feel it his duty to stand forward on this occasion: He was sorry to have occasion

to interfere at all with the prerogative of the King, as he was the fountain of mercy. He should not in the least endeavour to direct the House on the subject; but he must say it appeared to him, that the delay which was now asked in favour of this unfortunate man, was nothing more than what was due to the discussion of the subject. The mere circumstance of the convict being on board a transport ready to sail, appeared to him to be no reason for refusing the proper time for the discussion of the case; he might be taken from on board the vessel, and remanded to prison. It was a case that required the attention of the House, and out of which there could not arise any mischief; what could be done, in his opinion ought to be done, and the delay of the sailing of the vessel appeared to him to be nothing in comparison to the importance of the subject now before the House; at any rate Mr. Palmer might be taken on shore and remanded to prison, while his case remained under discussion in that House.

Mr. Secretary Dundas said, he should be for the earliest day that could be appointed for the discussion. With regard to the other proposition, that of delaying the sailing of the vessel, or remanding the convict to prison, he felt himself under the necessity of resisting it, although so much recommended by the Hon. Baronet. He conceived himself bound in duty to do so; and he should not forgive himself, nor would his conscience forgive him, if he neglected it, and gave way to the feelings and emotions of the moment; by doing so, he should be instrumental in postponing the punishment of one man, and raise the expectation and increase the disappointment of many others.

Mr. Whitbread, senior, called the attention of the House to the peculiar case of the petitioner, which, he said, was an object well worthy their serious consideration: Mr. Palmer was a man descended from one of the most ancient and honourable families in the county of Bedford; and the unfortunate situation in which he was placed, had been the cause of inexpressible grief to his numerous friends; even supposing the sentence pronounced upon him legal and just, a question upon which he felt himself by no means competent to decide, he was nevertheless an unfit object of prosecution and punishment, being considered, all his life, a man somewhat deranged in his intellects.

He believed from his heart the petitioner had no evil intention against the government of this country; and he was firmly persuaded that any twelve gentlemen of Bedfordshire, who knew him, and were summoned on a jury of lunacy, would bring him in insane.

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He thought it his duty, as a Member of Parliament, and also in compliance with the applications of the friends of Mr. Palmer, to give the House this information, which fell within his own particular knowledge.

Mr. W. Smith said he should vote for the earliest day, because, under all the circumstances, that appeared to him to be the best. But he could not help making this observation---If the principle maintained by the Secretary of State was carried to its full extent, the sentence of the Court of Justiciary must be executed, even if it should be death; and the only remedy to be allowed to the person complaining, was, an inquiry into the justice of his sentence after his execution. He wished to know whether there was in nature any thing more absurd than such a proposition.

The question was then put upon the amendment, and the debate upon Mr. Fysche Palmer's petition was adjourned to Thursday, without a division.

MOTION FOR AN ADDRESS TO THE KING.

Mr. Whitbread (having shortly intimated in the preceding debate, that he should bring forward a motion as soon as the question relative to Mr. Palmer's petition was decided) said, that he thought the Chancellor of the Exchequer, who had declared, when the petition just disposed of for a few days was presented, that the time was too short, as first proposed, for its consideration, if an appeal was made to his humanity, could hardly think of putting the sentence against the petitioner in execution, before the debate on the petition was determined. He therefore hoped that his Majesty would stop the transport from sailing until that event should be over. The Secretary of State had said, his conscience could not suffer him to neglect his duty: Mr. Whitbread said, his own conscience would not permit him to neglect his: Nor would his feelings permit him to let the night pass, without making the motion with which he intended to conclude: The substance of it was, That an humble Address be presented to his Majesty, intreating his Majesty to give orders that the transport should not sail until the petition offered on the part of Mr. Palmer should be heard. Mr. Whitbread said, he was sorry he could not connect the case of Mr. Muir with that of Mr. Palmer; but that was impossible as the matter then stood; for the case of Mr. Muir was not at that moment before the House, and therefore he could not regularly allude to him. He concluded with moving, "That an humble Address be presented to his Majesty, praying that he will be graciously pleased to give directions, that the Rev. Mr. Palmer be not sent in the transport

in which he now is on board until after Thursday the 27th instant."

The Master of the Rolls thought there was no one parliamentary ground stated on which that House could, with propriety, adopt such a measure; that there was no parliamentary ground laid down for granting it; there was nothing on the face of things that distinguished the case of Mr. Palmer from the case of any other convict; that in the situation in which the House then stood, they knew nothing of Mr. Palmer or his case: At least they had nothing before them as a foundation for moving such an address. In order to warrant such an application to the House, the Hon. Gentleman who made it, should have been able to have stated some reasons for its adoption; in the present case, there was not one, nor any thing like a case made out; and he was persuaded it would be the only instance of the kind in the annals of Parliament. The precedent would be a dangerous one, and he wished to know if Gentlemen were prepared to say, that on the petition of any convict, the House should address his Majesty to suspend the execution of his sentence until they should have time to consider the merits of such petition! Besides, he had not understood that any proper application had been made to the Crown, whose undoubted prerogative it was to exercise mercy, when it found fit objects. He complained, that the arguments which he had made use of upon the motion of Mr. Adam, against the introduction of an appeal from the Court of Justiciary in Scotland, had been grossly perverted.

Mr. Fox observed, that the Learned Gentleman had by no means stated the real situation in which the question stood; there was one difference between the case of Mr. Palmer, and that of any other convict, with regard to the consideration to be given to it by that House, which he would state, because the Learned Gentleman had entirely overlooked it. The other convicts to whom the Learned Gentleman alluded, had not made their cases known to the House, or the situation in which they were placed; Mr. Palmer by his petition had done so, and therefore stood in a different predicament. No question was undecided with regard to them, whether their case should or should not be received. With regard to Mr. Palmer, such a question did stand undecided, and the further consideration of it was only adjourned; the question then to be considered consequently was, whether the House, having adjourned the consideration of the petition, would or would not give the object of it an opportunity of benefiting by that discussion, if the result of it should turn out favourable to him. He had no difficulty in saying, that if there was nothing more than that

question before the House, and independent of any merits whatever, he should give his vote for the present motion; and he could not help observing, it was rather curious that, when this subject was brought forward, it should be opposed on general grounds, independent of the circumstances of the case in favour of the application. Gentlemen had been rather hasty in forgetting that the petition, which made part of the case, had been already opened, and that the House had a few minutes ago agreed to adjourn the consideration of that petition. Mr. Fox said, he would not anticipate any thing so unfavourable to the House, as to imagine that they would reject the motion before them. He could not suppose that they would act so much to their disgrace, as to refuse to follow up their proceedings with consistency: When they themselves, and the minister with them, had required time to consider on the nature of a petition, they would not surely, with their eyes open, refuse to the person who presented it, the interval of four days, to benefit by the determination, or to know the issue of it.

Mr. Ryder said, he had been too long familiarised to the practice of the Right Hon. Gentleman to shower down his imputations of disgrace, if motions did not pass according to his sentiments, to be much overawed or much affected by such declarations. As to the particular question before them, he confessed he could not see any reasonable grounds whatever for the motion. He begged leave to say, they never yet had entertained any consideration of the subject in question: They had said, indeed, that the question on the receiving the petition was doubtful, but the House had not said that the matter now before them should be considered at all. Another observation he could not help making, and that was upon the manner in which this question had been introduced. An Hon. Member had said his conscience would not permit him to let this night pass without making the motion; he could not help congratulating him on submitting now so readily to the dictates of his conscience; but he thought that conscience had been a little tardy in its progress, since this subject had been mentioned almost at the beginning of the session, and, after various attempts to inveigle Parliament to come to a declaration on the matter, Gentlemen now came forward with a motion for an Address to the Crown, just at the time the sentence was under execution. The petition was signed three weeks ago; why had it not been presented before? What reason was there for this, unless it was done with a view of gaining a little time? This was something like the conduct of certain creditors of a particular person, who arrested him

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after an order went from the Secretary of State, under the authority of the Alien Bill, to quit the kingdom: This made it necessary for the ministers of the Crown to introduce a clause into that Bill, to put an end to such practice. There was no instance, he believed, of receiving a petition, the prayer of which was to suspend the execution of a sentence. Any person convicted at the Old Bailey might just as well make a similar application. A man so circumstanced would have only to get a petition presented, and then a motion made similar to the present, in order to obtain a delay of the execution of his sentence. The House had never entertained any doubt of the legality of the sentence on Mr. Palmer.

Mr. Adam said, the extraordinary interposition, if there was any, came from Gentlemen on the other side. They would not pretend to say that they were ready to decide whether or not the Petition ought to be received, much less whether or not, if received, the prayer of it ought to be granted. What then was the drift of their arguments? that the Petitioner, whether well or ill founded in his application to the House, should derive no benefit from it. The Right Hon. Gentleman should have recollected, that he had taken the earliest opportunity, after the meeting of Parliament in January, to give notice of his former motion. His respect for Courts of Justice made him cautious of bringing any charge against their proceedings without mature consideration. He had then abstained from all animadversion on the legality of the sentence, and he should do so still, unless goaded by such observations as he had just heard. He gave notice of the bill which he meant to propose, and at the same time that he should move in the Committee to introduce a clause with a retrospect to cases that had occurred in 1793. What the Right Hon. Gentleman meant by inveigling ministers, he was at a loss to imagine. In what respect had they been called upon, by any thing he had said, either in giving the notice, or making the motion, to give any opinion on Mr. Palmer's case? If they chose to volunteer opinions, and to confound questions perfectly distinct, it was their own fault. As to what the Right Hon. Gentleman had said of arresting friends, in order to prevent their being sent out of the country, he knew not to whom it applied. The irony was too fine for his comprehension.

The Chancellor of the Exchequer said, he felt himself obliged to rise to make a few observations on the speech of the Learned Gentleman. The interposition complained of was none of his. He had moved to postpone the consideration of the motion for receiving the Petition, and in that the House had concurred. If he were called upon to decide immediately,

he should say, that the Petition ought to be rejected; in fact he had only suggested the delay on the ground of caution. If the Petition were at that moment on the table, and time taken to consider of it, there would be no ground for the present motion. It contained not a single argument for postponing the execution of the sentence, which could only be done on the supposition that the sentence was illegal, that its severity was extreme, or that on one or other of these points grave and serious doubts were entertained. He called the attention of the House to the history of the transaction; reminding Gentlemen, that ministers had concurred to reject the motion on which the present was to have been grafted, and in every stage of the business they had conducted themselves so as not to have given their opinion that the sentence was at all illegal, nor had they appeared to entertain a suspicion that it was. Notwithstanding all this, notwithstanding that it was obvious doubts were entertained of the propriety of admitting the Petition, and the House had adjourned the consideration in consequence of those doubts, yet they were now called on with confidence to take a step which could only be justified by their belief that the sentence was illegal; and after the Petition had been presented and received. He reminded them, that the delay could scarcely be attributed to the intention of waiting the decision of the House on a former motion, since it bore date the day before that motion was brought. This then would not be the reason of postponing it: There was something, he observed, extremely suspicious in this neglect: He could hardly conceive it to be accidental, he was unwilling to suppose it premeditated. He admitted that Mr. Adam had given his notice candidly and fairly. It would also be admitted that his Right Hon. Friend (Mr. Dundas) then said, as ministers said at that moment, they entertained no doubt of the conviction being legal, the sentence apportioned with sound and meritorious discretion, and that no delay would be suffered in the execution. They were ready to argue the whole case then, and they were also ready to argue it immediately. Gentlemen on the other side knew this; and, when the House was in expectation of another motion, they produced a Petition, which had slept since the 3d of February. The effect of agreeing to the motion would be to give to the Public an impression that the House doubted the legality of the sentence, at a time when, for any thing they knew, much of the internal peace of the country might depend on no such impression going forth.

Mr. Adam said, that, after the rejection of his motion for leave to bring in a bill, he gave notice of a motion for documents

ments which he specified. The Right Hon. Gentleman took time to consider of that motion, and then refused to agree to it. Subsequent to that refusal, he gave notice of the motion he intended to have made that day: These circumstances were sufficient grounds for not presenting the Petition sooner.

Mr. Sheridan observed, that the Gentlemen on the opposite side had appeared to confound two things extremely distinct. He adverted to *Mr. Ryder's* insinuation, *viz.* "That the Gentlemen who proposed the present question, had frequently endeavoured to inveigle it into the House:" And said, ministers complained of attempts to inveigle them, as if it were the practice of their opponents to take advantage of the frankness and simplicity with which they conducted themselves on all occasions.—Nothing could be more open or candid than the general deportment of ministers in that House, and consequently nothing more opposite to openness and candour than that of other persons! yet, notwithstanding the candour and simplicity of the Hon. Gentleman, and notwithstanding the appeal that had publicly been made that evening, he knew nothing so suspicious as a minister's conscience.

Whatever the conscience of the Right Hon. Gentleman might be, he was happy to boast of a conscience very different. Perhaps the Right Hon. Gentleman only assumed a careless air of tranquillity, or perhaps the time was yet to come when his conscience would excite a very different sensation. Fearless of disguising his own sentiments, he would avow that, so contrarily had he been affected, that, in company with a Noble Lord [*Lord Lauderdale*], and another Gentleman [*Mr. Whitbread*], a Member of that Honourable House, he had long ago paid a visit to the Gentlemen [*Mr. Palmer* and *Mr. Muir*] so severely condemned by the Court of Justiciary, on purpose to gain such intelligence of their condition as might operate towards the attainment of a reversal of their sentence. They afterwards waited on the Right Hon. Secretary of the Home Department, and represented the illegality of the sentence, the oppression it inflicted, and their determination to bring forward a parliamentary inquiry upon the subject. They then requested some suspension of the severities they were condemned to suffer until they were able to determine upon the competency of the Court of Justiciary, whether an appeal did not, or could not, lie to a Supreme Court of Judicature, or whether some revocation could not be established. The Right Hon. Secretary heard them with attention, and desired them to state their objections in writing, and to each of their requests most readily acceded, for which he begged leave to return him his sincere thanks; he would therefore do the Right Hon. Secretary of State the justice to say, that
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in one instance he had been open and candid; and had the Right Hon. Secretary followed the practice he observed at the commencement, he should not now have cause for the least disapprobation. They had no desire to circumvent the Right Hon. Secretary, and committed their objections and their arguments upon them to paper; that paper was transmitted to the Scots Judges for their opinion. Here, however, the Right Hon. Secretary's candour ended; for when he told them that their objections were inadmissible, he did not communicate the report of the judges on which he founded his negative. Mr. Palmer had since presented a petition to his Majesty. Was that petition referred to the judges, or had the report of the judges upon it been signified to Mr. Palmer? Those who had interested themselves in Mr. Palmer's case—a case of oppression, as they considered it—had omitted no mode of obtaining relief. Many circumstances induced them to delay applying to Parliament till they had tried every other method. The family of Mr. Palmer thought they had connexions and interest, which a petition to Parliament might render ineffectual. Sorry and ashamed he was to say, that a petition to Parliament, it was feared, might be considered as something seditious. It was at least thought to be ungracious, and therefore inexpedient, to petition Parliament, while there was a chance or a hope of mercy. The Gentlemen opposite had objected to the time of the present application, and observed, that the Petition should not have come after other business. This was the very reason for their commendation. He maintained that neither he himself, or any of the Gentlemen who were engaged in presenting the Petition, had sitten with folded arms, and in a state of careless inactivity, until the final issue, as had been represented; but had uniformly and consistently, with prudence and with perseverance, adopted and pursued every measure that seemed practicable and just. Petitions had been advised. An attempt had been made in the Lords upon the Law of Appeal. Notice had been given also in that House upon a motion which ought to have been the first in point of precedence, and he was sorry it was not so, he meant the production of the Record. To produce the Record would be the best and fairest ground of proceeding, since upon that alone could the main argument be established. Though he had given notice of making some inquiry at that time, he could not make up his mind on the subject, and therefore had postponed it, since his Learned Friend had then named the day for bringing the whole motion forward.

Mr. Sheridan adverted to what Mr. Whitbread, the elder, had insinuated of the family of Mr. Palmer. It was very confidently reported, that although sentence was passed, yet there

there was good reason for believing that a sentence so abhorrent to the spirit of our law, a sentence which no man in the House would dare to vindicate if applied to a similar offence in England, would not be carried into execution. That lending a book (which was the case of Mr. Muir) should subject a man to transportation like a felon for fourteen years, would be enough to raise the people of this country in arms. If ministers attempted to make the law of Scotland the law of England (but they dared not), they would find it a sufficient crime to forfeit their heads. Upon these grounds it was, that the business had been delayed until it was actually proved that every hope of lenity was unfounded. Let Gentlemen recollect that the measure, which had now been judged as criminal, was instituted formerly, and promoted by those very persons who now supported the judgment of the Court of Justiciary in Scotland. Instead, therefore, of punishing a few individuals with such unremitting rigour as they had done, they ought to be thankful that the whole country had not risen up in arms to enforce them to their first solemn and repeated promise, or avenge themselves for the cause which they had so perfidiously betrayed. Suppose any man, conjointly with others ostensible from their rank and situation, had encouraged opinions which were once at least allowed to be constitutional and just, and afterwards, upon that authority, published those opinions in Scotland, whereby he should be tried, deemed guilty, and convicted, would not such a proceeding be sufficient ground to forfeit the head of any minister whatever?

"They charge us," said Mr. Sheridan, "with making a party question of this, when we ought to have applied to the fountain of mercy. I know what mercy was shewn to similar objects, before we made any question on the subject. I speak with some information; I have seen those unfortunate victims, I have visited them in those loathsome hulks: Gentlemen by birth, profession, and education, fit company for any Member in that House, compelled to associate with common felons, and the basest of mankind; themselves not indeed in irons, but who had recently been released from their fetters, separated from each other, and even denied the small consolation and slender comfort of associating together, on the idle and absurd pretence that some danger might ensue from the conspiracy of two poor and oppressed individuals, that they might possibly create an insurrection." Whatever ministers might urge of their conscience, Mr. Sheridan said, it was a shame and a disgrace to them, which, though they might endeavour to avoid or to conceal, would for ever foul their reputation, to suffer

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Gentlemen, who had minds as great and as accomplished, and souls not less alive to sensibility than their own, to be thus miserably banished from their country and their friends, and doomed to the abject slavery of wretches, who had dishonoured the character of men.

The sneer of a Right Hon. Gentleman [Mr. Ryder] with regard to some Gentleman having arrested a person ordered to quit the country, he believed had reference to the case of Count Zenobio, who, as he understood, had been arrested by Mr. Horne Tooke. [*Mr. Thompson contradicted him as to this fact.*] He could not say positively by whom he had been arrested, but Count Zenobio was certainly the person alluded to; and he could not conceive any reason for ordering him to quit the kingdom, as he believed him to be a *harmless little man*. With regard to the Count's having been arrested, Mr. Sheridan declared, that he did not know at what time a man should be arrested for a debt, unless when it was publicly known that he was about to quit the country.

Mr. Ryder objected to *Mr. Sheridan's* expressions, as he had not in his speech made mention of names.

Mr. Sheridan was not conscious that he had said any thing improper; but when Gentlemen made allusions in that manner, it was only possible to *guess* at their signification. He wished the Gentlemen on the opposite side of the House, according to their own ideas, would be more explicit. He had some reasons, however, to make his suppositions from the notice which had been given in the House of introducing a new clause in the Alien Bill, though he never could admit the policy or necessity of that Bill, nor had been able to discover its utility. The caprices of ministers, of which the Right Hon. Gentleman had so ill-advisedly chosen to remind the House, were, *Mr. Sheridan* confessed, unaccountable. They had expelled a few individuals, of whom he believed no person ever apprehended much, merely to keep the bill alive; and now, by way of keeping it alive a little longer, they were introducing a new clause. It certainly appeared singular and inexplicable; for the minister must either suppose it criminal in a debtor not to be arrested immediately, that is, within two or three days after he had incurred the debt, or else it was very criminal to be arrested at all. He then argued to enforce the propriety of an Address to his Majesty. The Hon. Gentleman (*Mr. Ryder*) he observed, had said, that on the Journals no shadow whatever appears of the illegality of the jurisdiction, or the sentence; and consequently the case, as it previously stood, had no reference. He begged the Hon. Gentleman to consider it as the case then appeared, without any retrospect

spect to the legality. In this consideration one thing was to be adduced, which his Right Hon. Friend (Mr. Fox) had before applied; namely, in a case of death. In the present case they had urged, that no petition was admissible between the passing of the sentence and the execution of it. What would ministers do if the sentence were capital? Would they refuse to suspend the execution? They knew they durst not act in a capital case, as they meant to do in this. They would not venture to proceed to execution, without examining the contents of the petition. If any minister did, the penalty of death ought to be inflicted upon him, and indeed almost for maintaining the doctrine. But the sentence on Mr. Palmer was tantamount to death, and who was competent to tell whether the execution of this sentence might not be attended with death? If the transport should fail, there were chances almost beyond calculation of his death before he could return.—Woe to ministers if it should be so! and let them exculpate themselves as they could. Suppose it had been stated by a person condemned to die, that he was not guilty; suppose that he was in possession of proofs of his innocence; suppose that he only believed so, or suppose that such alone were his assertions, and they had reason to credit those assertions; would they not respite him until his innocence or guilt were proved? If he contradicts having incurred the penalties of death, and proves that he did not merit the punishment to which he was sentenced, and a minister, by his obstinacy, suffers him to die, that minister deserves the penalties of death for his injustice.

Let it be remembered, said Mr. Sheridan, that from the Court of Justiciary there lay no appeal. Let the House imagine that the convict presented a petition, wherein he stated, that he is not the proper object; that the evidence appeared against him; that, upon that evidence, and upon presumption, he was convicted; but that circumstances have been since revealed, which proved and established his innocence beyond all power of contradiction; would not the petition of such a convict have a claim to be received? He contended, therefore, that the present case was tantamount; for who is qualified to determine upon the legality or illegality, upon the validity or the impropriety, of a petition, before that petition be received? For these reasons he warned ministers to be cautious. They were not to premise any part of a petition before it be received and read; for that is to be guilty of presumption; and there was a probability that the lives of the petitioners would pay the forfeit. With regard to what had been said in respect to tardy consciences, he wished the ministers joy of their consciences, for he did not think them to be envied;

but if the law were as ministers maintained it to be, it certainly ought not so to remain. If the motion should be rejected by the House, and the transport ship should sail before the decision of the House upon the petition, ministers, Mr. Sheridan reminded them, would put themselves into a state of responsibility which they would afterwards wish they had never hazarded.

Mr. Anstruther rose next, and said, all that Parliament were at present informed of was, that Mr. Fysche Palmer was convicted of sedition; and being now on the point of receiving the sentence due to that crime, had petitioned the House, complaining of the sentence on the grounds of illegality and injustice. This petition the House thought so novel in its nature, as to require time to consider of the propriety of receiving it. If, however, it had been received, it could not have been considered that day, and the same argument would then have applied for delaying the execution as at present. The consequence, therefore, of this doctrine, would be to enable any convict to have the means at hand to delay his own sentence. The responsibility of ministers in this case, he said, was exactly what it was in every other, and no more. As he could not therefore see the least reason for delaying the sentence, he should of course oppose the motion.

Mr. Whitbread, with his usual ability, defended the principles upon which he acted, which, he said, were solely those of humanity in the motion for the Address; and declared, that if no precedent of such a motion as he now brought forward could be found, he would be glad of being the means of creating one. A Gentleman, whom he did not then see in his place, had dropped some sentiments, and in a tone of authority, upon his motives, which he thought he had a right to defend, as he should expect, if impelled by wrong motives, to have his motives questioned, and their impropriety exposed. It was upon the score of conscience. He certainly expected the same credit of conscience as any other person; and he not only maintained that an appeal, but that the approbation of his own conscience was far better, and more satisfactory than even the approbation of the Gentleman could be that had opposed him. He hoped also to be exonerated from another imputation, that of tardiness. He was not conscious of having been in the smallest degree tardy. He should have made inquiry into the cases and conditions of the unfortunate Gentlemen under sentence of transportation at the commencement of the Session, but that it had been undertaken by abler persons, and that notice had been given of another motion. An Hon. Gentleman had called the present motion novel and

extraor-

dinary: Although it might be deemed novel and extraordinary, he hoped that he should have the honour of placing it on the Journals as a precedent for the future. He had confessed that he had visited and conversed with Mr. Palmer, and that he had given his opinion that the sentence was illegal, unconstitutional, and oppressive. He said, that he certainly had not included Mr. Muir in the present case, though it was his wish to do so; but that, according to the regulations of that House, he found that to have so included him, would have appeared improper. He concluded with declaring, that, as the respite was only for two days, the illegality of the sentence ought to be presumed, until the House had finally decided.

The Marquis of Titchfield declared, that his present opinion did not tend to the future decision of the legality or illegality of Mr. Palmer's sentence, but went distinctly to the petition. Since the petition was to be accepted, he thought the sentence ought to be suspended, if it was urged by no other arguments than the dictates of humanity.

Mr. Wilberforce agreed that the House ought not, either in this or any other question, to lose sight of humanity; but he declared he saw not the inhumanity of executing a sentence of the criminal law, after a fair and public trial, and a verdict of a jury; for such he conceived to be the case of Mr. Palmer. If there was any error imputable to Gentlemen in that House, it appeared to him to be imputable solely to Mr. Palmer's advocates, although he owned he had not read Mr. Palmer's trial. He said he had been inclined from the first to think the whole business suspicious, because Mr. Adam had postponed his motion, which motion alone appeared capable of giving them full information on the subject. Mr. Wilberforce declared, as a Member of Parliament, he felt it to be his duty and his constant business to sit in the Committees of that House; and thence found, in those Committees petitions were presented and received on general grounds, though the allegations they contained often turned out to be false; so, upon the same general principle, he could not object to the acceptance of any petition, however false its allegations. He nevertheless declared upon his conscience, that he did not conceive the sentence ought to be suspended.

Mr. Thompson sharply retorted upon the last Gentleman, who, he said, had repeatedly come forward in that House upon the Slave Trade, with the profession of humanity; yet he now thought proper to deny it to an oppressed and miserable individual, though he declared he had not read his trial, which upon that ground he thought was the most inhuman declaration

he had ever heard. If Mr. Palmer had been born a *black*, probably, Mr. Thompson said, he would have stood a better chance of receiving more indulgence from the Honourable Gentleman. He stated it to be the duty of a Representative to listen to every complaint, and wherever the complaint was just, and he had power, to redress it. He also said a few words relative to a case of arrest (that of Count Zenobio) that had been introduced in that evening's debate.

He assured the House that the Count was not arrested at the suit of Horne Tooke, but at the suit of Mr. Miles, in St. James's-street. Detainers were then in great numbers lodged against him; and when, he asked, should a man in debt be arrested, if not at a time when he was publicly about to quit the kingdom? He took notice of a smile of contempt or indignation, he knew not which to call it, that had been communicated from one Gentleman to the other on the opposite side, at the mention of Horne Tooke. Notwithstanding that smile, Mr. Thompson said, he was proud to boast of the friendship of that Gentleman; and there was a time when the Right Hon. Gentleman opposite to him had been also proud of uniting with the same person in a constitutional and parliamentary reform. He begged leave to remind the Right Hon. Gentleman of his speeches and letters at that period, speeches and letters for which Mr. Palmer and Mr. Muir, with many other unfortunate gentlemen, who had adopted his principles, and acted under his sanction, now suffered. He begged leave further to ask at what time these gentlemen could with so much propriety embark in an undertaking of this sort, as under the administration of a man, who, in conjunction with such distinguished characters as the Duke of Richmond, Lord Mahon, Mr. Wyvil, Mr. John Jebb, Mr. Frost, &c. &c. &c. had first established and promoted it? He reminded the Right Hon. Gentleman of what had passed at the Convention of Delegates, at the Thatched House Tavern, and assured him, that none of the unhappy persons who had suffered, would have been deprived of their liberty and their friends, but for the original conduct and the subsequent duplicity of the present minister.

Mr. Jolliffe recommended Gentlemen to be cautious how they mixed the legislative and executive authorities; which were extremely distinct in their original functions, and wisely kept separate from each other in the practice of the Constitution.

Mr. J. T. Stanley rose, when some Member yawned extremely loud—The whole House laughed very heartily, and for some time;

time; when there was a general cry for the Question, and there appeared,

<i>For suspending Judgment</i>	-	34
<i>Against it</i>	- - -	104

<i>Majority</i>	70
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Adjourned.

HOUSE OF LORDS.

TUESDAY, February 25.

The Archbishop of Canterbury moved, That the Bishop of Norwich be requested to preach before the House on Friday the 28th, being the day appointed by his Majesty for a General Fast.—Ordered.

Mr. Anstruther brought a message from the Commons, stating that it was the desire of that House that Mr. Larkin might be ordered to attend the trial of Warren Hastings, Esq.

The Bills for repealing the duties on Births, Marriages, Burials, and Gloves, were read a third time. The Indemnity Bill passed through a Committee, and was ordered to be reported.

The Duke of Norfolk's motion, which stood for this day, was postponed till Monday the 3d of March.

TRIAL OF WARREN HASTINGS, ESQ.

The Lords proceeded, at half past one o'clock, to Westminster-hall, on the trial of Warren Hastings, Esq.

The House returned from the Hall at half past four, when a long debate took place, on the question respecting the admissibility of the evidence of Mr. Francis, which continued until six o'clock, when the House adjourned.

HOUSE OF COMMONS.

TUESDAY, February 25.

A new writ was issued for East Retford, in the room of Lord Lincoln, now Duke of Newcastle.

The resolutions of the Committee of Supply of Friday the 21st, were agreed to.

MILLERS' TOLL BILL.

Sir Francis Basset moved, That the second reading of the Bill, authorising justices of the peace to fix the price at which millers should grind corn, might be put off from Thursday Friday the 7th of March.

The Master of the Rolls begged to call the attention of the House to the principle of this Bill, by which it was intended to vest

vest justices of the peace with so great and extraordinary a power. For any thing he knew to the contrary, it might be a very proper Bill; but he wished to apprise the House of the nature and extent of it, and requested that they would consider it against Friday the 7th of March.

SLAVE TRADE.

Sir William Young presented a petition from the British West India merchants in London, wherein the petitioners prayed to be heard, either in their own defence or by counsel, against the Bill then pending in that House, for an abolition of the Foreign Slave Trade. This petition was urged the more on account of the measures which the French had taken relative to the islands of St. Domingo and Martinico. The merchants, *Sir William* said, had only been informed of the Bill then pending on the abolition of the slave trade but a few days since; he requested the House, therefore, to consider the general principle of the petition, because the merchants had called a meeting on Saturday the 22d. On Monday the 24th, the meeting was held, and the petition drawn up, which was that day presented to the House, and of course not so complete or so specific as it otherwise might have been. He then moved, That the petition be laid upon the table.—Ordered.

Colonel Tarleton also presented another petition to the same effect, and on the same subject, from the merchants of Liverpool employed in the Slave Trade; which was likewise ordered to lie on the table.

HESSIAN TROOPS.

Mr. Grey gave notice, that he should again bring before the House a question which they had partly discussed already. This he did with considerable reluctance; but a doctrine had been held in that House with a view to maintain that the King had, by his royal prerogative, a power to introduce foreign troops into this kingdom, without the consent of Parliament; that having been the case, he said, he should deem himself negligent of the duty he owed the Public, if he did not mark such alarming doctrine with reprobation, believing, as he did, that such an assertion was equally hostile to all the principles of a free constitution, and irreconcilable to the positive law of the land. He would, therefore, on Tuesday the 4th of March, move for leave to bring in a Bill of Indemnity for Ministers having consented to the landing the Hessian troops in this country.

ATTORNIES.

Mr. Sheridan remarked, that the second reading of the Bill which imposed a tax upon attornies, had been deferred from time to time, so long, that he begged some day might be named for that purpose.

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The Chancellor of the Exchequer named Thursday the 27th.

He then desired to know what day the Learned Gentleman (Mr. Adam) intended to bring forward the motion he had put off?

Mr. Adam replied, that he was not competent exactly to name the day. If no question arose from the presentation of the petition on Thursday the 27th, he should bring it forward at that time, as connected with the same principle; but if a question did arise, he would bring it forward on the Monday following, which would be the 3d of March.

PENNY POST.

The House resolved itself into a Committee, in pursuance of the order of the day, to consider of regulations to be adopted upon this head: Mr. Hobart in the chair.

Mr. C. Long rose, and stated to the Committee, that, as the law at present stood, letters sent by the penny-post from any part of the city of London or Westminster, the borough of Southwark, or the suburbs, to any other part thereof, were liable to pay one penny; but if sent from the city of London, &c. to any place out of that city and suburbs, another penny was payable: Therefore he proposed, that an additional penny should in like manner be payable upon letters put into any penny-post-office out of the city of London, &c. and conveyed to any place within the cities of London, Westminster, or suburbs. The object in laying the additional penny in the manner he proposed, was in order to defray the additional expence which would be incurred, by increasing the number of daily deliveries of letters by the penny-post, of which he signified that there were in future to be six, instead of only two, as there are at present; and that the regulation was intended to take effect as soon as possible. Mr. Long concluded with moving a resolution adapted to the subject.

Mr. Sheridan objected, on the extraordinary ground of the regulation, which, though termed a regulation, was avowedly meant to have the effect of a tax by way of additional duty. It was a whimsical sort of Irish tax, or penny-post, where a man was to pay two-pence for it; and although the case was trivial in itself, yet the principle on which it proceeded was wrong, for that the regular conduct of finance should be, First, a supply was to be agreed upon to a certain amount; and then, after time being allowed to consider the case attentively, the ways and means for raising that supply were to be proposed; and again, some time was to be given to the House to consider on the mode of raising that supply; and the whole being determined, there could not after that regularly be an additional tax for that year. The present proposition was not a new tax
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in point of form or name, but he contended it was so in point of fact; for it proposed an additional tax on the carriage of certain letters under the title of the penny-post. It ought, therefore, to have been brought forward in the ways and means of the year, for at that time the Public ought to have known all the burdens they were to bear for the ensuing year.

Mr. Baker concurred in opinion with *Mr. Sheridan*, and supported it by additional arguments of a similar nature.

The Speaker pointed out a distinction between a committee of supply or regulation, such as this, and a committee of ways and means for the year. He admitted that no supply for the year could be provided for but in a committee of ways and means for that year, but this case did not come under that description; because, in point of fact, the increase of the postage of letters was not appropriated to the service of the year.

The Chancellor of the Exchequer followed the Speaker on the same grounds, and said, that the principle laid down by the Hon. Gentleman (*Mr. Sheridan*) was by no means universal, because cases occurred almost every session of Parliament in direct opposition to it. In cases where a tax had been evaded, and a bill was brought in to prevent such evasions, the natural consequence was, that the revenue was increased: But did any Gentleman ever argue, that such a measure must be brought forward in the committee of ways and means? In the present instance it was by no means matter of certainty that the additional duty would increase the revenue, because it had not been possible to calculate the expences of the new arrangements in the post-office, or whether the additional duty would more than cover them; therefore it could not have been stated as part of the ways and means of the year.

Mr. Sheridan said in answer, that he neither had questioned nor did question the propriety of the regulation; he only wished that the principle should be established, that when the minister had once stated his ways and means for the year, he should not be repeatedly coming to Parliament to propose fresh taxes under the name of regulations.

After some further discussion between *Mr. Pitt*, *Mr. C. Long*, and *Mr. Sheridan*, the Bill passed the Committee, and the report was ordered to be received the 26th.

SUPPLY OF SLAVES TO FOREIGN ISLANDS*.

Mr. Wilberforce moved, "That the Bill for preventing the Foreign West India Islands from being supplied with Slaves by Subjects of this Country, be read a second time."

* The Public, misled by an unaccountable mistake of some of the daily reporters, have been induced to conceive, that the debate on *Mr. Wilberforce's* bill respected the trade to the British, instead of foreign, colonies.

Sir W. Yonge declared, that, though he had last session supported a Bill to the same effect, yet he in the present instance felt himself bound to oppose it; the circumstances of the question were, he thought, changed and altered entirely since the abolition of colonial slavery by the French Convention, and the measures lately pursued in the French islands took place. He reprobated the doctrines of the humanity and policy of the abolition, which he considered as wild and visionary opinions, unfounded in themselves, and destructive to the monied connexions and trading and commercial interest of Great Britain. *Sir William* declared, he conceived it to be the duty of every Member from great commercial towns to oppose it. Though he had left the colonies, putting his own fortune, which was indeed but immaterial, out of the question, he considered himself entrusted with the fate and fortunes of all that remained there. He confessed, that, at a former period, he had thought the proposed measure a laudable one; and, if introduced at a proper time, it still should have his support: But the present did not appear to be the proper time.

He remarked on the trouble and inconvenience of licensing every slave, and reminded the House, that when our fisheries had been discussed and debated, the number of bonds, checks, and dockets, was always allowed to be perplexing and oppressive; nor would they be found less so by the merchants employed in the commerce of slaves, in which 600 sloops, and other vessels, were constantly engaged. Let Gentlemen recollect that land carriage between the islands was impracticable, and that slaves must be perpetually transferred from one island to another, even by the same planters, for the common purposes of cultivation, &c. and they would readily conceive the trouble that must of necessity ensue.

He observed, that already the evils complained of formerly in the slave trade were at an end, that the transportation to the French West India islands had abated since the war, and that during the war it was impossible the trade could rise again. If the present Bill passed, he feared that other Bills must follow, which would greatly impede and confuse the merchants. It might be necessary to bring in other Bills to recognise the foreign conquests as British; or how could they determine whether the trade with those places conquered should cease or be continued? *Sir William* said, that he had always taken the middle line of argument, that there was no sort of personality in his objections, and that he had never dropped one word of a disrespectful tendency. He hoped that the House would examine the petition in the main intent of it, and not be disposed to take any advantage of its obscurity, which was entirely owing

to the haste with which it was framed. Sir William concluded with moving for the second reading of the Bill on that day six months.

Alderman Newnham said, he should give his negative to the motion, because it could be of no avail, as the principal part of the foreign trade had been already suppressed by the effect of the war. The harsh terms generally applied to those who opposed this wild plan of abolition, should not, the Alderman said, deter him from doing his duty. When he considered the immense property embarked in the West India trade, and the serious consequences which must follow if that trade were lost to this country, he could not suppress his astonishment that Gentlemen should wish to hazard so much without the certainty of gaining any thing, because the cause of humanity would not be served by it: On the contrary, the trade would be carried on by others, and not one negro the less would be brought from Africa.

Mr. Burdon declared, he felt himself bound, as a man, a Briton, and a Christian, to give his support to a Bill which tended in some degree to abolish a trade, founded, in his opinion, on injustice and inhumanity. He wished that the prevention could be extended not only to foreigners, but that the trade could by any means be totally suppressed. Had the slave trade been abolished when it was first proposed, he could not but think that by getting the start of the French, the measures they had recently adopted and put in execution would have been of no importance.

Mr. Vaughan began with saying, that whatever asperity had been supposed to appear in other quarters, nothing but the highest compliments were due to the moderation of a petition against the Bill then lying on the table, from the West India planters and merchants, and to the candour and temper of the Honourable Baronet who had just spoken. He said, however, that he could not on that account stifle his own opinions, which were very different from those of a part of his West India friends. He had always been surprised how any British colonist, whatever he might think of the Slave Trade generally, could object to the cessation of that part of it which went to the supply of *foreigners* with slaves, which was all of it that was now in question. He thought it somewhat extraordinary, that any British colonists should be anxious to raise up rival colonies to supplant themselves. His surprise was not the less to find that the present state of things among the French islands was thought a new motive to desire to continue to supply foreigners with slaves. While the French slaves were in a state of convulsion, he conceived that it was very extraordinary

to wish, by pouring in fresh slaves among them, to add fuel to fire, and give them fresh reinforcements of mutineers; for such would the newly-imported slaves become. In like manner, if the example of French proceedings must really be so contagious as was apprehended, he thought it little less imprudent to multiply the disaffected persons in the Dutch, Danish, and other foreign settlements, by giving them a like supply, when it was argued that they would soon be unable, probably in consequence of the contagion now spreading, to govern those they had already.

His West India friends had deprecated discussion in their own meetings, though they allowed, by their reasonings, that the matter was already spread abroad in the colonies. For his own part he knew it was so spread, and that he was telling no secrets, when discussing the question in that House, with a view to the remedy; he therefore wholly disregarded the fear, that the minds of the negroes were in such a state of dangerous excitement, that we must not appear to give way upon any one part of the slave question. The votes of the House of Commons, and other symptoms of the public feeling, were already known to the slaves; and as the Lords would soon have to pronounce *Aye* or *No* on the principal question, little would be gained by temporizing and delay on this secondary question. Formerly, indeed, the slaves in the islands were governed by force and by ignorance; but the system must now be changed. Force, he was sorry to say, must still continue, and even be increased; but it was too late to govern the negroes on the presumption of their being ignorant, and by the disgusting means in use to keep up that ignorance. The power of *opinion* over them was now vanished; for if strictly analyzed, this power of opinion simply resolved itself into the influence of *ignorance*. It had become necessary therefore to resort to force and to policy; placing our policy in the stead of their ignorance. It ought to be remembered, that ideas of liberty were not *innate*, but that they are easily communicable, and were now communicated.

He then referred to the fate of the mulatto question among the French, to shew that a contrary conduct to theirs would be policy in our case, under present circumstances; and that we ought, as soon as possible, to put the free mulattoes and free blacks on our side, and at the same time to encourage small settlers, and endeavour to soften the manners of the mulattoes and blacks, &c. &c.

He denied that it would be a safe measure to endeavour to conquer the French islands, since, after gaining all the military posts in them, we might as little succeed in producing internal

nal tranquillity in them as the French themselves had done, who had wasted a multitude of troops in the attempt. He said, that conquest would produce the very communication between the French and English islands which was so much dreaded, and that if we wished to prevent either the instigations, or the effect even of the narratives of the French mulattoes and negroes, it could only be done by a national separation between the two sets of colonies; for that nothing of this sort could be hoped for if they were under the same dominion with ours, without too much interference in the colony legislatures.

He took occasion, in the course of his speech, to advert to the subject of colony legislation; and said, if the clauses of the present Bill clashed with the colonial rights, this matter, by the rules of the House, must be discussed in the ensuing Committee; but he had assured himself that every desire of accommodation towards the colonists, on this subject, existed in the friends of the Bill.

To the *principle* of the Bill, therefore, which was all at present in question, he avowed himself a friend, having repeatedly divided and taken an active part in favour of it last year. He should again, he hoped, be able to vote for it this year; always looking, as he did, to an abolition, at a *proper period*, of the whole of the Slave Trade.

Mr. Este contended, that this was rather a Bill of Abolition than of Regulation, because it went to destroy the larger branch of the trade, *viz.* that to the Foreign islands. In the smaller islands the operation of it would be particularly felt as a grievance, as the merchants had plantations in each little island, and were frequently obliged to transport their slaves from one to the other, as occasion and circumstances might require. Whenever occasion to do this should occur in future, they would be obliged to make application to the Governor for a licence, and then it would be a matter of option with him either to grant or reject it. Though we declined the trade, we must be aware that the Dutch and Spaniards would not forego it; and what advantage could possibly arise from throwing up the trade into the hands of others, who might treat them with much more cruelty? The poor negroes, from benevolent friends, would be transferred to hard task-masters, who would never be able to do so much for them, even if inclined, as ourselves, because they had not the same means of liberal inquiry. *Mr. Este* said, these were the reasons which induced him to think that, if Gentlemen really wished to serve the cause of humanity, they would vote against the Bill.

Mr.

Mr. Vaughan rose to explain ; but going into fresh argument, he was called to order by Sir William Young.

Mr. Serjeant Watson declared, that he had strong reasons for adopting the principle of the Bill ; he thought that was not the proper stage of the business for discussing opinions, but that the Bill should be referred to a Committee to make their report, and then the House would have the principle and the detail of the Bill completely before them. The Serjeant took notice of the argument of Alderman Newnham, and stated, that if the foreign trade had been suppressed by the war, this was the most proper time for adopting the principle of the Bill, and giving it the form and force of law, since no loss would be immediately occasioned in consequence, and the regulations proposed would effectually prevent the revival of the trade in future.

Mr. Barham expressed his surprise, that, after so much debate, no good or powerful argument had been adduced to condemn the proposed regulation, nor even to prove its inutility. The old hackneyed assertion had been brought forward, that if we gave up the trade, other powers would take it up : What did this amount to but a declaration, that we should continue what was wrong, in order to keep others from doing worse ; a proposition the reverse of every principle of morality that he had ever heard stated. If no stronger arguments could be urged in opposition, he should expect that the whole of the Bill would be received, adopted, and enforced, not only by a decided majority, but almost unanimously.

Mr. Barham discussed the principles of the Bill, and made several observations on the opinions broached that evening. If the foreign trade has no existence, why object to a Bill which looked prospectively, and would rather operate effectually to prevent its revival, than apply a remedy to an existing grievance ? He stated a variety of arguments, objected to the perpetual agitation of it, as recommended on the first reading by Mr. Whitbread, not only every day but every hour, and concluded by avowing that the Bill should have his support.

Mr. R. B. Jenkinson declared, he thought the Bill highly dangerous, considering the state of the West India islands at present, and considering also the nature of the decree of the National Convention of France relative to their slaves. What good effect, he asked, could the Bill possibly produce, since it confessedly could not operate during the continuance of the war ? (which itself, for the time it continued, put an end to the foreign trade.) The bill appeared to him likely to produce evil, and therefore he said he should vote against it.

Mr.

Mr. Fox said, that as the Hon. Gentleman who spoke last admitted the trade proposed by this Bill to be abolished for the present, and that it had no existence at this time, it would be impossible for him to maintain, with any thing like consistency, the impropriety of the Bill : Because, if the trade had no existence at present, the question was, " Whether we should now give it a death-blow in respect to the export of slaves to foreign islands, or should hereafter suffer it to be revived ? The trade having at the moment no existence, what became of all the arguments they had heard concerning the mighty capital embarked in it ? the sanction which Parliament had given from time to time to its continuance ? the violent attack on private property ? the injury to commerce ? the danger of innovation ? All these arguments, if arguments they could be called, were fled ; nothing remained therefore, but that Parliament should take care that, having once fled, they should never return. This was essentially and emphatically their duty ; because, if Parliament should at this time remain silent upon the subject, the friends of the trade, on attempting to revive it, would say, that not having taken measures to prohibit the revival when the trade was dormant, and when no injury could arise to any individual, they had tacitly acquiesced in its principle, and held out encouragement for others to venture whenever an opportunity should offer ; and it would be further attempted to be proved, that Parliament had, by its silence at this moment, pledged itself to support this abominable, this execrable traffic. *Mr. Fox* declared, that for his part he wished the great question to be implicated in the present Bill, because it ought to be considered as connected with it in an indirect, it was true, but not an unessential degree. This was one of the first great steps towards a gradual abolition. That House, on the great question, had already decided for a gradual abolition, until the total abolition was effected, which they had stated should take place, if he mistook not, by the 1st of January 1796 ; and the abolition of the foreign trade was, at that time, recommended as the first measure to be adopted for that purpose, because it was the most practicable, and was likely to be attended with consequences the least inconvenient and the least dangerous. The year 1794 had arrived, and consequently but two years remained to carry the whole of their resolutions into execution and effect, respecting a total abolition. Of those resolutions he considered the present Bill a material practical part ; and the House, in pursuing it, did nothing more than hold out to this country, to Europe, and to the world at large, that they were sincere in their professions and their intentions.

tentions. He trusted that the Honourable Gentleman (Mr. Wilberforce) who had first brought the subject forward, would not abate in his zeal and ardour for the glorious cause in which he had engaged. Perhaps it might not be absolutely necessary to do more than push forward the Bill under discussion in this session; but he was sure another step towards the total abolition of the trade should not be delayed beyond the next, being clearly of opinion that the subject could not be too frequently agitated. Let it be asked, in what state was this great question at the present moment? He would not speak with disrespect of the House of Lords; but surely if, from the multiplicity of business before their Lordships, this important subject had not received their determination, it could not be improper for the House of Commons to be additionally vigilant, and to remind the other House of their sense respecting the expediency of a total abolition. Gentlemen should recollect, that the Lords had received the Resolutions of the Commons, on the subject of the Slave Trade, in April 1792. What progress they had made in the subject he could not learn, but he had understood that their Lordships had that very day further postponed the consideration of the Slave Trade to the 11th of May. If the House of Lords, therefore, from time to time delayed the consideration of this question, if they shunned it, if they shrunk from it, if they shifted or neglected it, the House of Commons ought again and again to remind them of their duty, firmly but respectfully. The Right Hon. Gentleman (Mr. Pitt) would, he had no doubt, exculpate the Commons of Great Britain, and demonstrate that they were not desirous of shrinking from giving their opinion in a way the most likely to be conducive to the effectual abolition of the trade. Were the Commons House of Parliament to pass that Bill, and to present it to their Lordships for their acquiescence, he entertained too high an opinion of their Lordships' wisdom and justice, not to think that their Lordships would give it their concurrence. Were their Lordships to refuse their assent to the Bill, he had only to say, that he should be much disappointed, since the instances were very rare indeed, where that House had frequently carried up a Bill for their Lordships' concurrence, that their Lordships persisted in rejecting it. He hoped that Gentlemen were misinformed, when they had stated that the discussion of the question was likely to produce mischief. From what he had been able to collect upon the subject, he was inclined to believe, that since the discussion of the question had been brought forward in that House, the treatment of the slaves in the West Indies had been much more mild

mild and lenient than before. He would not go into general reasoning on the subject, or state his opinion on the justice and policy of the trade; because he thought that the question of justice and policy had been fully decided already. If it were possible, the trade, in his opinion, ought to be abolished. He would not argue it, but he would take it for granted, that the majority of that House was decidedly in favour of the total abolition. The peculiar part of the trade that the Bill then before the House went to abolish, was admitted to be the least objectionable; and it was at a time in which none of his Majesty's subjects could suffer any material injury whatever from its entire abolition in that particular branch of the trade to which the purview of the Bill was directed.

The Chancellor of the Exchequer said, that the point that had been most relied on by those Gentlemen who opposed the Bill, was considered by them as a point of delicacy. This point he looked upon in a different view. The wild and improvident measure that had been adopted by the French, namely, that of giving liberty to the slaves in their islands, was the strongest possible argument that could be advanced in favour of the present Bill. Since the French had granted liberty to their slaves, there was great and serious reason for apprehension of danger; and the only method of counteracting that danger, was by establishing such wise regulations as should preserve order, and maintain our superiority, by gradual reform and limited indulgence on our parts, which would manifest the sincerity of our intentions, at a fit moment, to consent to a total abolition of the trade. Another point was, that which had been argued by implication in opposition to the Bill; but which, in reality, was an additional argument in its favour. He meant the mutiny which was said to be likely to ensue if the trade ceased. So far was he from adopting such an opinion, that it appeared to him most reasonable to conclude that the mutiny would be more likely to happen by the continuance of the trade after the French had emancipated their slaves, and declared them free: A moment's reflection would shew, that it was not from the natives, who were accustomed to the habits of their masters, and were interested in their favour, nor was it from slaves who had been long imported, but from slaves who were lately brought to market, who were raw, stubborn, and resentful at the loss of their country and independence, that a mutiny was to be expected. He referred to various examples of history in support of this argument. So much for the case, if the general abolition applied only to the limited point of view in which the House had considered it;

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but in the extent of those principles, to the number of which it may be applicable, let him for a moment ask, if to increase the slaves at a time when it was feared they may revolt, because they receive not the same benefits as those of the French colonies, was either matter of expediency or matter of policy? In such a combination of circumstances, the evils would be aggravated by the supply of an additional force, which their own trade would necessarily import. In the third place, the horrible effect of the systems of the National Convention had already produced a desolation in their colonies, and a void of population, which the continuance of our foreign trade would remedy, and empower them to retort upon us by those very instruments which we have provided them with. From the circumstance of his entertaining notions and principles directly the reverse of the notions and the principles of those who opposed the Bill, he declared the Bill should have his support.

Colonel Tarleton said, the Slave Trade to foreign islands was so far from being at an end, that since the last session of Parliament, forty or fifty vessels had been fitted out for that trade only from Liverpool.

Mr. W. Smith said, it mattered little whether the trade was at an end, or only reviving. He would advise Gentlemen who opposed the abolition of this disgraceful traffic, not to suppose that those who were desirous of seeing it entirely at an end, were so weak as to rely on their assertion, that the question of the foreign Slave Trade was at present *asleep*. If the abolition of the trade in general proceeded in the same tardy *ratio* that it had hitherto done, it would not be asleep, in fact, for forty years to come; though, in the mean time, they would effectually administer a sleeping potion to the sentiments of justice and humanity.

Mr. Cawthorne said, he would not consent to take advice from Gentlemen whom he knew to act in this business from principles so opposite to his own. He did not pretend to be directed by the violence of religious zeal, but acted from the interest he took in the benefits of the national commerce. To shew the baneful effects this system of abolition would have upon our West India colonies, he read an extract of a letter he received from a friend, in which it was urged, that if the endeavours of the abolitionists should be persevered in, the period was rapidly approaching when the *Blacks* would no longer suffer the Whites to live amongst them. It concluded with these words: "Those are my *private* sentiments, which I wish NOT to be known."

[Perhaps there never was a louder shout of laughter in the House than on the mention of the last words, and no person

took a greater part than the minister in the pleasantry which they excited.]

Lord Sheffield said, a British Act of Parliament might put the Slave Trade to foreign islands into much worse hands than our own, but could not put an end to it.

Mr. Wilberforce, advertng to the statement of Colonel Tarleton respecting the forty or fifty ships from Liverpool, said, that when the present question was disposed of, he would take an opportunity of moving for the names and clearings of these ships, to see whether the Colonel had been misinformed, or the information he had himself received was to be relied on.

The House then divided, when there appeared,

<i>For the Amendment,</i>	—	38
<i>Against it,</i>	—	56
		—
	<i>Majority</i>	18

The Bill was read a second time, and ordered to be referred to a Committee.

The House then adjourned.

HOUSE OF LORDS.

WEDNESDAY, *February 26.*

The further consideration of the Slave Trade was adjourned to Tuesday the 4th of May.

The French Property Bill, with some amendments, was reported and agreed to.

The Mutiny Bill was read a third time, and passed.
Adjourned.

HOUSE OF COMMONS.

WEDNESDAY, *February 26.*

The time for receiving Petitions was, on the motion of Mr. Mainwaring, enlarged till Tuesday the 4th of March.

Read a third time, and passed, the Durham Inclosure Bill.

PRIVATE PETITIONS.

The Speaker, at four o'clock, after several private Petitions had been presented, informed the House, that the private business must cease, as public business of an urgent nature was to come on. He observed, that if any inconvenience arose from this, Gentlemen had to blame only themselves, as he attended at three o'clock; and if a sufficient number of Members had attended to constitute a House, the whole, or at least the

the greatest part, of the private business might have been by that time transacted.

ATTORNIES.

The Chancellor of the Exchequer said, that, before he moved the Order of the Day, for the House to resolve itself into a Committee of the whole House on the Attornies' Tax Bill, it was necessary for him to state, that, in consequence of the representations of some of his Learned Friends upon this subject, he was induced not to propose to the Committee the whole of what he had intended when he opened this subject in the Committee of Ways and Means. He meant to omit entirely that part of the tax which related to persons already under articles to Attornies, and to confine the duty merely to those who shall be articulated in future.

Mr. Plomer thanked the Chancellor of the Exchequer for this information: He was sure it would relieve the anxiety of many persons who were interested in the business.

Mr. Adam declared himself adverse to the tax altogether. He stated the profession of an Attorney to be equally useful and honourable: They were, he observed, well known to be a class of men entrusted with the secrets of the principal families of the kingdom relative to their most important concerns; and whatever might be the misconduct of a few individual members, those of another description ought not in justice to be involved in the disgrace. This tax would operate to confirm the public prejudice already entertained against this useful class of men, who, if guilty of irregularities, should be restricted by regulations, applied as occasion might arise, by the Courts to which they respectively belonged.

Mr. Adam spoke most liberally of Attornies, as a description of professional men; and said, he would take the liberty of recommending to the Courts in Westminster Hall to imitate the regulations which existed with regard to the Clerks of the Signet in Scotland, whose respectable mode of conduct never subjected them to any of those disagreeable prejudices, which unfortunately, from the foul practices of a few, prevailed against Attornies in this metropolis, and the southern part of the kingdom.

Mr. Mainwaring said, an opinion and report had gone abroad, and had been with some industry propagated, that he had been the suggester of this tax; he took that public opportunity of declaring, that he had never heard of the tax till he heard it from the Chancellor of the Exchequer in that House, for that he had not the honour of being privately consulted by that Gentleman: He wished to say so much, in order to rescue

his character from an imputation, which no part of his conduct had merited.

The Chancellor of the Exchequer, with great candour, acquitted the Hon. Gentleman of any share of the honour or disgrace that might be attached to the measure: But hoped, as he was thus freed from what he conceived an imputation that might have proved irksome to his mind, that he would give no opposition to the Bill.

Sir William Dolben offered some observations regarding a particular exception in favour of the sons of Attornies, when——

The Speaker informed him, that the Committee would be the most proper place in which, if he wished it, he might rise and move for the introduction of any clause for regulation.

The House then resolved itself into a Committee of the whole House on the Bill. A clause was brought in to exempt from the duty of 100l. all clerks now under articles to Attornies, and who shall have been so before the fifth of the present month.—This clause was agreed to.

Sir William Dolben said, the observation that he had before attempted to make, and to which he had not yet received an answer, was, the circumstance of several men in the profession having children, whom they might be desirous to apprentice to themselves. He wished, therefore, to have a clause introduced into the Bill, that the sons of Attornies, apprenticed to their fathers, instead of paying 100l. on being indented, should not pay it till the time of their admission.

The Chancellor of the Exchequer said, the reason why he had not replied to the Hon. Baronet's observation before was, that he could not do so consistently with order; but, he was free to confess, that he saw not any reason why this species of indulgence should be granted to the sons of Attornies. The object of the tax was to stop, *in limine*, such persons from entering into the profession as were not able to pay 100l. from a principle that a person unable to pay that sum, was not likely to have received such an education as the nature of the profession certainly required; and if an Attorney was not able to pay this for his son, he did not see any reason to suppose he could have been able to have afforded him any better education than the son of any other person, who could not pay this sum, had received; and the more especially, as he had no fee to pay, which was not the case with those who were not in the profession. He hoped, therefore, the Hon. Baronet would not press the point further.

Mr. Este concurred in this opinion.

Mr.

Mr. Adam wished to know, if this Act was meant to extend to writers in Scotland, who are there in the same character as Attornies are in this country?

The Chancellor of the Exchequer said, he understood not.

The Master of the Rolls reminded the Hon. and Learned Gentleman, the Act was applicable only to the King's Courts at Westminster, and to the Courts in Wales.

Mr. Mainwaring wished to know, if the Six Clerks of Chancery, the Filazers, and other officers of the several Courts, who, in virtue of their offices, might be admitted Attornies, were liable to this tax?

The Master of the Rolls replied, that when upon enrollment, for the purpose of being admitted Attornies, they were in that case to pay, but not upon their taking upon them any of the respective offices.

The Solicitor General and *the Chancellor of the Exchequer* spoke shortly to this point.

Mr. Adam said, that he had a few words to offer with regard to the principle of the Bill, as he had not found an opportunity in any former stage, though certainly there could be no good apology made for any neglect of duty in that House. He had asked whether the Bill was meant to extend to writers in Scotland, who acted there in the duties, characters, and office of Attornies; he was answered in the negative; and he was happy to find that it did not extend to them, as they were under regulations which had a much better effect than any tax whatever. As to the present tax, it would tend to confound the good and bad together, and induce the Public to look on all professors of the law with a sort of suspicion; whereas many of them were ornaments to society, as well as to the honourable profession to which they belonged. He considered this tax to be against the general principle of taxation in this country, which objects to taxing men by corps or classes; a mode of taxation which has at all times been considered to be dangerous and pernicious, because it operates as a capitation tax, so far as it extends. He contended that the tax, instead of improving the morals of Attornies, would produce a contrary effect. It was requisite that Attornies, who were men necessarily selected frequently to be entrusted with secrets of the highest importance, and with affairs of the utmost consequence, should be held up to the Public as respectable characters. So far from improving the general morals of the profession, the tax, he must maintain, would prevent many young persons in the country, who had received proper and good educations, with a view to this profession, from entering into it; whereas many persons in the metropolis, who under-

stood the various chicaneries and the various modes of raising money by artifice, trick, and fraud, would find the means of forcing themselves into it. He thought that a Bill of Regulation solely would, on every account, be more advisable, and, in all probability, produce much better effect.

The Chancellor of the Exchequer denied any intention to cast a stigma on the professors of the law, many of whom, he was persuaded, were worthy, honourable, and most respectable men. He said, the Bill could not operate to throw any aspersion on the profession at large, in the manner apprehended by the Learned Gentleman who spoke last; but would operate chiefly as a regulation; for it would prevent persons of indigent circumstances, and illiberal education, from coming into the profession. If any further regulation should be advisable (and it was not at all improbable), he should be glad of the Learned Gentleman's assistance upon that occasion; but he saw no ground of reasonable objection to the principle of the present Bill in the point of view in which he had been led to consider it. In the law, as in all other professions, there were undoubtedly various characters, and it was the intention of the present Bill to render them more uniform. He insisted that this tax could by no means be deemed a stigma on the profession; it had been found necessary, for the regulation of many respectable trades, to tax them by licence, and it had never been considered as a stigma upon any of those trades. He had been inclined to think, from the loud and general share of applause which was bestowed when the tax was first mentioned, that it would not have met with any kind of opposition whatever.

Mr. Sheridan declared, that he saw the Bill in the same light as his Hon. and Learned Friend, Mr. Adam. He pointed out with great force what appeared to him to be great objections to the Bill. The tax he considered as ill-founded in its principle, and likely to be ineffectual in its operation. He also thought that, if he might so phrase it, it was a tax of passion: It was too much the custom of the present day to catch at the prevailing prejudices of the people, and humour them; thus we had entered into a war of passion: The very approbation of the House, when this tax was proposed, clearly demonstrated it to be the result of prejudice against a profession, which, though a few individuals connected with it might have acted dishonourably, abounded with men of the most fair and most respectable characters. Nay, the very expression used by the Right Hon. Gentleman, in answer to this applause, shewed the source whence this tax originated, *viz.* "he wished that he could have made it the only article in his Budget."

Budget. He took notice of a particular point on which he had not much doubt himself, but respecting which some persons were under serious apprehensions: Persons professing the Catholic religion had practised as Attornies, and this was said to be a practice by the connivance of the Protestant professors, for that the Catholics had not a right by law to act as Attornies. He did not mean to say that this was his own opinion, for his opinion was the other way, that the Catholics had, and ought to have, that right. But he wished to know, whether any thing was to be done to quiet apprehensions on that subject? He observed, that the Hon. Gentleman had said, taxes were laid on other respectable trades, which was not considered a stigma upon those trades. True, there were taxes for licences on ale-house keepers, dealers in spirits, and others of the like kind, but these were calculated merely to regulate the excise duties. There were also taxes paid by persons who held places under Government, in the manner and form he was certain the Right Hon. Gentleman (Mr. Pitt) thought no stigma.

The Chancellor of the Exchequer denied that he had used the words in the manner and form in which Mr. Sheridan had quoted them; they were used in warmth, and when the House was by no means orderly, and merely on the *spur of the occasion*; but, as well as he could recollect, his words were, he *wished every article in his Budget was as highly approved.*

The Solicitor General observed, that, with respect to Attornies of the Catholic religion, there were only about twenty Gentlemen in that situation, many of them advanced in years, and some above sixty, all of the highest respectability, and that the subject was worthy of the most serious consideration of the Legislature.

Mr. Jekyll said, that this tax was a very great hardship, as the Court could strike from the roll any person, or cancel his indentures, from even an opinion that he was not qualified to act as an Attorney.

Mr. Sheridan said, that what had fallen from his Hon. and Learned Friend (Mr. Jekyll) weighed much in his mind. The present Chief Justice, the honour and integrity of whose conduct merited every applause, had taken much pains to render this profession respectable, by removing from it such persons as he could lay his hand on, for their irregularity and misconduct. He must now find his hands very much tied up, as to the removal of Attornies; after paying this tax, or they will be dealt with unjustly, if, after paying such a sum, they were liable to be removed at the pleasure of the Court, without having their admission-fee refunded. He also observed, that in-

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Head of leaving young men some property to keep them from acting improperly, it would take from them a large part of what little they might possess.

After further conversation the Bill went through the Committee.

The Speaker resumed the Chair, and the Report was ordered to be received on Monday the 3d of March.

PENNY POST.

The Report of the Resolutions of the Committee, for regulating the mode of conveying letters by the Penny-post, being read,

Mr. Sheridan renewed the objections which he had before stated on that subject. He allowed that, in point of strictness, this alteration of the price of conveyance by such a medium as that to which the subject of the resolution applied, was not absolutely irregular, but in point of spirit it certainly was so; for in reality a new tax of one penny each letter, &c. was imposed on the Public, which had not been brought forward in the Ways and Means of the year. Having enforced this by many observations, *Mr. Sheridan* said, he was anxious that some reason should appear on the Journals, why the House ought to consent to so extraordinary a step; and therefore he moved, that after the words expressing the sum to be raised, should follow these words: "towards defraying the expence for more frequent and speedy delivery of letters by the Penny-post."

The Chancellor of the Exchequer agreed with *Mr. Sheridan* on the propriety of this amendment, and maintained all his former arguments on the regularity and propriety of the measure itself.

The Speaker said, that the words added he very much approved of; but that the Chancellor of the Exchequer had certainly been regular.

Mr. Sheridan explained.

MESSAGE FROM THE LORDS.

That their Lordships had agreed to the Marine Mutiny Bill, the Indemnity Bill, the Bill for the repeal of the duty on the register of Births and of Burials, and of the duty on Gloves, without any amendment. And also, that their Lordships had ordered *Mr. Larkin* to attend as a witness on the trial of *Warren Hastings, Esq.* as had been desired.

PAPER.

An account of the amount of the duty paid upon Paper for six years, ending 5th July 1793, was laid upon the Table.—
Adjourned.

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VOL. II

HOUSE OF LORDS.

THURSDAY, *February 27.*

After reading the several Bills on the Table, the House proceeded to Westminster Hall, on the

TRIAL OF MR. HASTINGS.

At Four o'clock the Lords returned, and entered into debate on the question referred to their decision by the Managers, after which they sent a Message to the Commons, that they would proceed on the trial of Mr. Hastings on Saturday the 1st of March; and then adjourned.

HOUSE OF COMMONS.

THURSDAY, *February 27.*

The Clayton Six Moors Inclosure, Warwick Canal, St. Alban's Road, and the Scotch Bank Bills, were reported, and ordered to be ingrossed.

A new Writ was ordered for Banbury, in the room of the *Hon. Frederick North*, who had accepted the office of Comptroller of his Majesty's Customs.

A Message was received from the Lords, that their Lordships would proceed further in the trial of Warren Hastings, Esq. on Saturday the 1st of March; and that their Lordships had agreed to several public and private Bills, among which was the French Property Bill, with amendments.

The amendments in the French Property Bill were taken into consideration, and agreed to.

SLAVE TRADE.

Mr. Wilberforce moved, "That a list of all the ships cleared out from Liverpool to the coast of Africa, from July 1793 to the latest dates, be laid before the House; and also of the number of Slaves imported into the British West India islands in 1791, 1792, and 1793."

Colonel Tarleton seconded the motion.

PARISH SETTLEMENTS.

Mr. Esse desired to call the attention of the House to that part of the Poor Laws which related to the removal of the Poor. He said, that this was a subject on which he should have entered with some degree of hesitation, as so many able men had before failed in their attempts in it, did he not know, that since those attempts had been made, some changes had taken place that would give him better ground to stand on. In consequence of the unfeeling neglect of officers, and the rigorous exercise of the powers of overseers and churchwardens, many unfortunate creatures had died by being re-

moved while in a state of health unfit for it. The Bill he proposed to bring in was intended to empower Justices, on seeing persons incapable of moving, to suspend their removal till they were fully able to proceed. On this part of the intended Bill he presumed there could not be a difference of opinion, and of course no opposition.

Mr. Este said, that he would state the law as it now stood, with his objections to it, in as few words as possible. The 13th and 14th of Charles II. enabling Justices to remove the poor from parish to parish, gave a latitude to Magistrates to indulge caprice or passion, in cases where objects came within the letter, though not within the contemplation or spirit of those laws, but particularly where (as almost every day happened) a person was getting an honest livelihood in another parish by industry or ingenuity in any art, or at any species of labour not in request, or not to be had in his own. In such cases, great hardships were endured, in the first place, by the object himself, in being forced from an honest and profitable livelihood to a state of bare dependent subsistence—in the next place, by the parish to which he was removed, in being thus loaded with an unnecessary portion of expence—and, in the last place, by society and the country at large, in being thus deprived of the person's contributive share of labour, and the advantage to be derived from it.

To his knowledge, Mr. Este said, there were many Magistrates who, though very desirous to mitigate the rigour of the Poor Laws in the instances he alluded to, thought themselves incompetent to do so, and imagined from the wording of the acts, that there was no discretion vested in them to exercise their judgment in the interpretation of the relative statutes, or to take into their consideration whether the person was likely to become chargeable or not before they removed him.

No risk, he said, could possibly be incurred in urging this remedial experiment: For it had been tried before, in the 1st and 2d of William III.—when it was enacted, that the Pauper should be permitted to remain, on his obtaining a certificate from the officers of his proper parish, stating that he belonged to it—but it was found too difficult to prevail on the parish officers to comply with this; for they generally thought it hard, that when another parish was perhaps for 30 or 40 years reaping the benefit of the person's labour, they should be burdened with his support and maintenance in the time of his old age and infirmity; and thus the provisions and salutary intention of those Acts were completely defeated.

There was another Act also, Mr. Este said, which extended the substance of the provisions which he meant to move to have

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have enacted by the proposed Bill, to Soldiers and Mariners having served his Majesty, and even to those who have served in the Militia.

Leave was therefore given for bringing in a Bill accordingly.

MR. ATKINSON'S PETITION.

Mr. Taylor gave notice, that he should delay no further than Monday the 3d of March, the subject matter of the Petition of *Mr. Atkinson*, unless the public business should on that day be very pressing, in which case he should take it up on Friday the 7th.

The Chancellor of the Exchequer said, that on that day he should propose to the House to go into a Committee of Ways and Means on the subject of the Navy Debt, and to discuss the subject on the Wednesday following.

DUTY ON COALS.

Mr. Alderman Anderson said, he was authorised to state to the House, on behalf of the Lord Mayor, Aldermen, and Common Council of the City of London, that they did not intend to apply to the House of Commons by petition, or otherwise, this year, for relief from the heavy tax imposed on them by way of duty on the importation of coals; although they felt it heavily, for that, in point of fact, they paid upwards of 130,000*l.* a year more than any other class of his Majesty's subjects, and were of opinion that such a burden was laid on them in an unconstitutional and unjust manner. The Alderman said, the reason the City had for not applying, arose out of a consideration of the present circumstances of the country, to which they thought it incumbent on them so far to submit, as to bear the inconvenience and hardship they laboured under in respect to the partial and oppressive coal duty, of which they had so much just reason to complain, but that they would renew their application to Parliament at a more convenient season.

MR. PALMER'S PETITION.

The Order of the Day being read to resume the debate on the question for receiving the Petition of the Rev. John Fysche Palmer, complaining that his trial and sentence for sedition in Scotland was unjust, oppressive, and unconstitutional,

Mr. Sheridan said, he understood that the Chancellor of the Exchequer had made good use of his time since the debate on that subject was adjourned, and that he was now ready to consent to the receiving this petition. Indeed, the question was so plain, that it ought never to have been argued; the petition ought

ought to have been brought up at once and read, and there should never have been a doubt expressed upon the subject; nor would it be necessary for him to argue the case, because it was too clear to require any elucidation that the most elaborate argument could give it. He had found several precedents exactly in point upon this matter, but it would be unnecessary for him to detail them all. He mentioned, however, the case of an individual as being exactly in point with the present petition. This man was convicted before the Recorder, and was ordered to be three times pilloried. The Parliament ordered the proceedings in this case to be laid before them, declared them to be illegal and oppressive, and reversed the sentence. Their standing Committee of Courts of Justice, he said, was a mockery upon the country, if the subject had not a right to apply to that House for a redress of grievances, when he conceived himself injured by the administration of justice in any of the Courts of the kingdom. He therefore pressed it to the consideration of the Chancellor of the Exchequer, whether it would not be well to assent to the production of the record in the case of Messrs. Muir and Palmer, in order to enable them to discuss the merits of that business the more fully. He concluded with moving, that the petition be brought up.

The Chancellor of the Exchequer said, he did not rise to object to the motion, but the inconvenience which would result from the House taking up the case of every individual who might petition against the execution of his sentence must be obvious; he, however, admitted that, on communicating with others upon the nature of this case, he found there were grounds for bringing up the petition.

Mr. Fox said, he was exceedingly alarmed when a doubt was expressed as to the propriety of receiving this, or any petition that stated a complaint of a sentence, or any part of the proceedings of a Court of Justice. The right of petitioning in that case, and the duty of the House to attend to such a petition, were so clear, that he wondered they ever could have been questioned. The doctrine on that subject was so clear, so just, so indisputable, and so well exemplified by the conduct of the Parliament which sat in 1741 (a Parliament which, in the early part of its proceedings, did more good to this country than all the rest put together), and which was almost exclusively occupied in receiving, deliberating, and deciding on such petitions as that of Mr. Palmer, that a doubt upon such a question at the present moment excited his astonishment. So far was it from being doubtful that Parliament should attend to the petitions of individuals, complaining of the injustice or
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the irregularity of their sentences, that almost all the numerous cases in which Parliament interfered, and corrected the proceedings of Courts of Justice, were necessarily the cases of individuals. The Long Parliament, however faulty it might have been in other respects, yet had, in this respect, rendered the most essential services to their country, by receiving and attending to the petitions of persons conceiving themselves aggrieved by the decision of the Star Chamber, a Court which, although now extinct from its abuses, was then perfectly legal, and had certainly rendered much service, by many of its decisions. The Parliament had not only received these petitions, but had, in many of them, either reversed the whole proceedings, or the sentence, as appeared necessary, and compensated the sufferers. Mr. Fox recited a great number of these cases, and concluded with observing, that it would have been matter of great alarm to the Public, if that House had laid down a precedent for not receiving a petition for examining into the proceedings of a Court of Justice.

Mr. Erskine expressed some doubts of the regularity of having put off the motion of Mr. Adam a few days since, merely because the Chancellor of the Exchequer entertained a doubt upon the subject. The House, and not an individual, ought to determine upon such points. He suggested this merely for the sake of obtaining information on the subject, as he was not in the House at the time he alluded to.

The Chancellor of the Exchequer said, that he never had denied the right of the subject to petition Parliament, but was only against the light exercise of that privilege, because if it was considered a matter of course, that such petitions were to be received from every person who thought himself injured, there would not be one person convicted who would not find such a plea. With respect to the petition of Mr. Palmer, he was satisfied of the propriety of receiving it, and therefore should not oppose it.

Mr. Adam said, that in consequence of the indisposition of Mr. Dundas, he would postpone his motion—perhaps the Right Hon. Gentleman might be able to attend on Monday. He should be extremely sorry to have the subject discussed in his absence, on every account; first, on account of the place he held in the executive government, which had charge of the execution of those cases; secondly, on account of his connexion with that part of Great Britain where the grievance complained of happened; and, thirdly, on account of the Right Hon. Gentleman having once filled the office of Lord Advocate of Scotland, and being therefore more likely than any

other

other to possess that knowledge requisite to the discussion of a question involving the laws of that country. He would therefore at present mention Monday for bringing on his motion; but should the Right Hon. Gentleman not be able to attend on that day, he wished to have it understood that he would make it on the succeeding Friday. Once more he would conjure the Right Hon. Gentleman opposite him to consider the subject, and consent to the production of the Records, without which he, and every Gentleman in the House, should be but groping in the dark; and he plighted himself to state a *prima facie* case, that would shew the House ultimately the necessity of calling for them.

The Chancellor of the Exchequer said, that he had hitherto heard nothing to induce him to give his vote for bringing up the record; he had heard exhortation indeed, but not argument: When argument should be offered, he would be found, as he should be, open to conviction. He still thought, however, no *prima facie* case could be made out so strong as to alter his opinion; and he concluded by assuring the House, that his Right Hon. Friend was as anxious as any other Member there, to proceed with all practicable speed to the discussion and final determination of the question.

The Petition was then brought up, read, and ordered to be laid on the Table.

The other Orders of the Day were deferred, and the House adjourned to Saturday.

HOUSE OF LORDS.

FRIDAY, *February 28.*

This day being appointed for a General Fast, the House proceeded, at Twelve o'clock, to the Abbey Church, when a sermon was preached by the Bishop of Norwich, who took his text from the 15th, 16th, 17th, and part of the 28th verses of the 2d chapter of Joel.

HOUSE OF COMMONS.

FRIDAY, *February 28.*

The House having met, the Speaker, attended by several Members, proceeded to St. Margaret's Church, where they heard divine service: The sermon was preached by the Rev. Dr. Bathurst. The House on their return adjourned to next day.

HOUSE

HOUSE OF LORDS.

SATURDAY, *March 1.*

The Mutiny Bill, the Glove Duty repeal Bill, the French Property Bill, the Burial and Christenings repeal Bills, and four private Bills, received the Royal Assent by Commission.

Their Lordships then proceeded to Westminster Hall to the

TRIAL OF WARREN HASTINGS, ESQ.

At Four the House being resumed, a Message was sent to acquaint the Commons, that their Lordships would proceed on the Trial on Monday the 7th of April.—Adjourned.

HOUSE OF COMMONS.

SATURDAY, *March 1.*

A Message from the Lords informed the House that their Lordships would proceed further in the Trial of Warren Hastings, Esq. on Monday the 7th of April.

The Speaker went up to the House of Lords, and, on his return, reported that his Majesty had given his assent by Commission, to the following public and private Bills, *viz.* The Mutiny Bill—The Bill to prevent the Transfer of French Property vested in the Funds of this Country—The Bill to repeal the Duty on Gloves and Mittens—The Bill to repeal the Duty on Births, Marriages, and Burials—The General Indemnity Bill—Rodolph's, Heintz's, and Benzoin's Naturalization Bills—and the Winter Common Inclosure Bill. Adjourned.

HOUSE OF LORDS.

MONDAY, *March 3.*

HESSIAN TROOPS.

Lord Auckland desired that the Protest of Lord Radnor, on the rejection of the Indemnity Bill for the landing of troops into this country, without consent of Parliament, might be read.

This Protest stated, "That with the exception of one Noble Lord (not one of his Majesty's ministers), it was in the debate unanimously admitted, that the keeping troops in this country, whether native or foreign, in time either of war or peace, without the consent of Parliament, is unconstitutional, &c."

His

His Lordship moved, with authority of the Noble Earl who had signed the Protest, that the words "with the exception of one Noble Lord, not one of his Majesty's ministers," be expunged.

Earl Stanhope declared, he was glad to find that no one individual Peer was audacious enough to assert that it was legal and constitutional for the King to keep foreign troops in the kingdom without the consent of Parliament. He rejoiced therefore at the course of proceeding then before the House, as it would stand on the Journals, and prove that no one Noble Lord ventured to maintain that it was legal to keep foreign troops without consent of Parliament.

Lord Auckland replied, that the Noble Lord had given a turn to the proceeding then before the House, that did not belong to it. There was something in the Noble Lord's expressions which seemed to convey an idea of the present motion, as if it were in some degree a recantation of the opinion of a former day. His opinion, as he had pronounced it, and as their Lordships would recollect it, had no reference to the *keeping* troops in the kingdom, whether with or without the consent of Parliament. His position was, "That he was not prepared to say it was legal, but he did not know, nor believe it to be illegal, for the King to land foreign troops in this kingdom in time of war: That this was a part of the prerogative, to be exercised, as in other cases where the law is silent, for the benefit of the country; that, like every other exercise of the prerogative, it is to be justified to Parliament, by the expediency or emergency of the circumstances." Farther reflection had convinced him that this doctrine is accurate and constitutional. At the same time he felt no difficulty in declaring, that foreign troops, so brought by the King, cannot be kept in this country, either in peace or in war, without the consent of Parliament. The distinction between the two positions of law was plain and obvious. In disclaiming the one, which he never had asserted, he did not mean to relinquish the other, or to depart from it in any degree.

The motion for expunging the words objected to by Lord Auckland, was carried.

HOUSE OF COMMONS.

MONDAY, *March 3.*

The Speaker informed the House, that, as the next day would be the last day of receiving private Petitions, he should be ready to take the Chair at half after two o'clock.

SCOTS

SCOTS JUDICATURE.

Mr. Fox said, that a Learned Friend of his (*Mr. Adam*) who was not then in the House, desired him to state for him, that he had deferred the motion of which he had given notice for this day (on the subject of Trials for Sedition before the Court of Justiciary in Scotland) to Monday the 10th, on account of the great probability of the attendance of a Right Hon. Gentleman (*Mr. Dundas*), as well as many others who could not conveniently attend until that day.

COMMITTEE OF SUPPLY.

The Chancellor of the Exchequer moved the Order of the Day for the House to resolve itself into a Committee of Supply on the subject of the Navy Debt.

The House having so resolved itself into a Committee, and *Mr. Hobart* being in the Chair, the Chancellor of the Exchequer reminded the Committee, that on a former day he had given notice that he should have a Resolution to propose in a Committee of Supply on the Navy and Victualling Bills; the detail of which he should lay before the House on Wednesday the 5th.—He then moved the resolution, “That provision be made for enabling his Majesty to discharge debts due on all Navy and Victualling Bills made out to the 1st of March 1793, amounting to 1,530,094*l.* 18*s.* 1*d.*”

The resolution was put and carried, and the report of the Committee was ordered to be received the 5th.

The House then agreed to go into a further Committee of Supply on Wednesday the 5th.

HESSIAN TROOPS.

Mr. Grey gave notice, that, in consequence of the next day being the last for receiving private Petitions, he should postpone the Motion, of which he had given notice for that day, until Tuesday the 11th, as he understood that his bringing it forward at the time he first intended, would very much incommode several Gentlemen who had private business to bring forward.

MR. ATKINSON.

Mr. M. A. Taylor rose, in order to present a Petition which he held in his hand from *Mr. Christopher Atkinson*; the prayer of it, *Mr. Taylor* said, was, “That the House would expunge from their Journals, the Resolutions they had made concerning him.” *Mr. Taylor* stated the grounds which called for the present application, and explained the object of it. *Mr. Atkinson* having formerly considerable business with the Victualling Board, in supplying them with corn, had

been accused in the public prints of various mal-practices, and these accusations had all been signed by a man of the name of Bennett. Mr. Atkinson intending to sue Bennett for damages for having libelled him, made an affidavit, which was a necessary measure previous to filing his bill, wherein he swore he had never made any other advantages than what the Board allowed him. Upon this affidavit, which had been drawn by very eminent attorneys (Messrs. Wallis and Troward), and revised and settled by the late Lord Ashburton (then Mr. Dunning), he was afterwards indicted for perjury, and convicted in 1781. The Attorney General of that day (Mr. Wallace) likewise filed a bill against him in the Court of Exchequer, to force him to account for those sums of which his conviction supposed him to have defrauded the Public. In consequence of this proceeding a very minute investigation into the long detail of his accounts took place, and the result was a very honourable acquittal of all imputation of fraud, by the concurrent testimony both of the Bench and the Attorney General. He suffered the punishment inflicted by the sentence of the Court before which he was convicted, but afterwards applied to the mercy, or rather the justice, of the Crown, and received a pardon, which did away all the legal incapacities which his former conviction and sentence imposed on him. The present was an application to that House, to rescind the vote of expulsion they had passed upon his conviction. Mr. Taylor said, he intended, for the present, merely to bring up the petition, to have it referred, on a future day, to a Committee, to report on the merits of the case; and upon their report he should offer such resolutions as that report should seem to require.

Sir Francis Baring opposed the petition, stating as a reason, that the transaction itself bore the strongest marks of fraud and enormity, with the slightest veil thrown over it. He cursorily enumerated the particulars of the case to prove this, and gave it as his opinion that Mr. Atkinson had been justly convicted.

The Master of the Rolls said he had no objection to receiving the petition, but he declared against any other proceeding to be had upon it. He considered Mr. Atkinson as ill-advised in his present application, as it was forcing a discussion of the merits of his case in that House, which it had not done before; their former vote of expulsion being merely a matter of course, as the necessary consequence of any Member being convicted of the crime of perjury. The present application was, besides, useless, because Mr. Atkinson's pardon from the Crown having restored him to all his former rights, the vote of expulsion in
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a former session of Parliament did not prevent his sitting in the present, or any future session.

Mr. Bearcroft argued with great zeal and ability in favour of *Mr. Atkinson*, whose affairs, he said, had been very unfortunate, and greatly misrepresented. He disclaimed any imputation on the judge and jury who condemned him, and thought the case widely altered since the judgment in the Exchequer, in consequence of which he had received from the mercy of the Crown (it might, perhaps, be said from its justice) a full pardon : This pardon might be pleaded in every Court of Law, and was conclusive in his favour.

The House, in adopting the resolutions concerning *Mr. Atkinson*, he contended, did not proceed on any particular acquaintance with the subject, but only voted them as a matter of course, after the judgment in the King's Bench. The merits of the case they never had examined, but founded their opinion on the authority of that Court ; the sentence of which was in fact annulled by the Royal pardon. He avowed, therefore, that he felt inclined to support the motion, and to countenance the subsequent steps proposed, as well from general principles, as from the opinion he had formed on the case in his former capacity of Counsel to *Mr. Atkinson*.

Mr. Alderman Curtis conceived the case of *Atkinson* to be too enormous to allow of the bringing up of the petition.

Mr. Ryder called the Alderman to order, and reminded him that the motion was only for receiving the petition.

Mr. Mainwaring thought it unfair to confine the worthy Alderman so strictly to the question, as others had been permitted to deviate.

The Speaker gave it as his opinion, that *Alderman Curtis* was in order, because, he said, he presumed that *Hon. Gentleman* urged his general condemnation of the case, as a reason for his intended opposition to the present motion.

Alderman Curtis concurred with the Speaker, and resumed his speech.

The Chancellor of the Exchequer, in a speech of some length, maintained the regularity of the present motion ; but desired it to be well understood, that, although he had a leaning as to his opinion on the merits of the case itself, he abstained from saying a syllable as to the tendency of that opinion. By acceding to this motion, the House should understand it stood pledged for nothing either one way or the other.

Mr. Francis gave his assent to the motion, merely on the general ground of supporting the right of the subject to petition the House, be its decision ultimately on the merits of the case what it might,

The Petition was then received, and ordered to lie on the table.—Adjourned.

HOUSE OF LORDS.

TUESDAY, *March 4.*

The Order of the Day, for proceeding farther in the Inquiry respecting the Slave Trade, was discharged, and a new order made for Tuesday the 10th.

The Bishop of Rochester gave notice, that on Tuesday the 10th he should submit a proposition to their Lordships, for facilitating their progress in this business.—Ordered that the Lords be summoned for Tuesday the 10th.

Adjourned till Thursday the 6th.

HOUSE OF COMMONS.

TUESDAY, *March 4.*

Several Petitions were presented from certain woollen manufacturers, complaining that a monopoly was introducing into the trade by men of large capitals, to the great detriment and probable ruin of the numerous manufacturers of small capitals, and praying general relief. Ordered to be laid on the Table.

Mr. Mainwaring presented a Petition, signed by ten thousand persons, some of them creditors, some proprietors of the Royalty Theatre, in Wellclose-Square, and other inhabitants of the eastern part of London. The petition stated, that this theatre was opened for dramatic performances by Mr. John Palmer, and that the petitioners were interested in that theatre, and prayed that a licence might be had for the regular performance of dramatic works during the summer season.

Referred to a Select Committee, who are to make their report to the House.

Mr. Long presented a copy of the Treaty, or Tariff, between the Elector of Hanover and the King of Great Britain, relative to the employment of Hanoverian troops in the pay of Great Britain.—Ordered to be laid on the Table.

Read a third time, and passed, the Bill to enable the Proprietors of the Bank of Scotland to increase their capital.

The Chancellor of the Exchequer said, that, after mature deliberation on the Duty on Slates and Stones, he had thought it adviseable to alter the mode he had at first suggested for collecting that duty: This he should do in a Committee the 5th. He thought it necessary also to give notice, that on Thursday the 6th, he should move for leave to bring in a Bill for enabling

enabling his Majesty to increase the number of Militia Forces, and to augment that sort of power for internal defence, in order that his Majesty might be the better enabled to employ his other forces with vigour abroad.

Sir Watkin Lewes wished to know whether Limestones were to be subject to the new duty.

The Chancellor of the Exchequer said they were to be excepted altogether.

The Attornies' Tax Bill was deferred to Thursday the 6th, and the other Orders of the Day to Friday the 7th.

JOHN HUNTER'S MUSEUM.

Mr. Pelham presented a petition to the House from Mr. Matthew Baily and Mr. Edward Home, respecting the purchase of the late Mr. Hunter's Museum; the petition stated, that under the will of Mr. Hunter, the Museum was devised to them to be disposed of for certain purposes: That it was first to be offered to the Government of this country, at whatever might be thought a fair price between the contracting parties: In case our Government should refuse to purchase it, they were directed by the will to offer it for sale to any foreign government that should chuse to purchase the same.

The Petition was ordered to lie on the table.

Mr. Pelham said, that on a future day he should make a motion grounded on the Petition.

DRURY-LANE THEATRE.

Mr. Fox presented a Petition from Richard Brinsley Sheridan, Esq. on behalf of himself and all the other Proprietors of the Theatre in Drury-lane, stating that a vast expence had attended the rebuilding of that edifice; that many houses on the south side of it, and other places, should be pulled down, to render the avenues more commodious, &c. and that the Theatre could not be made complete by the powers which the Proprietors could at present by law exercise, and praying the aid of Parliament.—Referred to a Select Committee.

HOUSE OF COMMONS.

WEDNESDAY, *March 5.*

IMPEACHMENT.

Mr. Burke moved the House, that a Committee be appointed to inspect the Journals of the Lords, relative to their Lordships' Proceedings in the Trial of Warren Hastings, Esq. Ordered. And that the Committee do consist of the Managers appointed to conduct the said Trial.

Read a third time, and passed, the Clayton le Moor Inclosure, and Aylesham Road Bills.

NAVY

NAVY DEBT.

The House having resolved itself into a Committee of Ways and Means for raising a Supply, for enabling his Majesty to pay off certain Navy and Victualling Bills,

The Chancellor of the Exchequer opened the nature of the provision to be made for the purpose of paying off all Navy and Victualling Bills made out on or before the 31st of March 1793. The substance of the plan was, that the holders of the Navy and Victualling Bills of the above description shall be allowed the amount of their demand in the Five per Cent^s Stock, at the rate of 99, which Stock being at this time a little above par, this is full 101l. for every hundred. And all Navy or Victualling Bills that may issue after the 12th of April 1794, are to bear interest from the time they are issued, and shall be payable in fifteen months from that time.—*The Chancellor of the Exchequer* moved a Resolution to that effect, which was put and carried.

STONES, SLATES, AND MARBLE.

The Chancellor of the Exchequer called the attention of the Committee to the duty to be imposed on these articles, and pointed out, that, from their great variety, it would be better to place the duty rather on value than weight. He also observed, that there was a duty on those materials at present, when coming from the islands of Jersey, Guernsey, Sark, and Man, but that it was something less than the duty in contemplation amounted to. It would, however, in his opinion, be expedient to equalize this duty throughout all parts of his Majesty's dominions; and therefore he meant to propose to repeal the present impost, and to substitute one in its stead exactly similar to that about to take place in England.

With this view he proposed the following Resolutions:

1. That it is the opinion of this Committee, that the present duty on Stones, Slates, and Marble, coming from Jersey, Guernsey, Sark, Alderney, and Man, do cease and determine.
2. That a duty of 20 per cent. be laid on those articles when coming from those places.
3. That the same duty be laid on the same articles carried coastways from any part of England.—Agreed to.

ADDITIONAL MILITIA.

The Chancellor of the Exchequer moved, "That it is the opinion of this Committee, that the additional expence of the increased Militia be charged on the Land Tax for 1794."—Agreed to, and the Resolutions ordered to be received.

LEEDS

LEEDS AND LIVERPOOL CANAL.

On the second reading of this Bill, the House divided :

For the Bill 100—*Against it* 9—*Majority* 91.

The Bill was then ordered to be engrossed.—Adjourned.

HOUSE OF COMMONS.

THURSDAY, March 6.

The Report of the Committee of Ways and Means for raising the Supplies to pay off certain Navy and Victualling Bills, as also for regulating, altering, and adding to the duties on Stones, Slates, and Marble, and for paying and clothing the Militia, was brought up, and the Resolutions read.

Leave was given to bring in a Bill, to enable the Greenland ships to complete their full complement of men at Shetland.

The East India Judicature Names were reported, and read over.

Mr. Mitford, from the Exchequer, presented eight Accounts, which were ordered to lie on the table.

Leave was given to bring in a Bill for the Regulation of Boat-men, Wherry-men, and Lighter-men, on the River Thames.

PAPER.

The Bill for the Duty on Paper was read a first time, and ordered to be read a second time.

THE SABBATH.

Mr. Mainwaring brought on his promised motion respecting the due observance of the Sabbath. He said that the Act of the 29th of Charles II. which annexed penalties to the breach of that day, was found insufficient for the due enforcement of its provisions, on account of the difficulties that lay in the way of its execution. He declared, that he would be as far as any man from exacting a rigid or severe execution of any penal law; but he considered it to be material to the general interests of the community, that divine worship should be more punctually attended to than it was.

The Act he alluded to was obviously defective in this essential point, that it did not vest sufficient authority in Magistrates to carry its provisions into effect; for the sum of five shillings was the whole of the penalty to be levied on the offending person, one-third of which only was to go as a reward to the informer or prosecutor. He appealed, therefore, to the good sense of the House, whether the *third part of five shillings* was an adequate inducement to any man, to take upon himself the trouble of enforcing the law and carrying it into effect. *Mr. Mainwaring* therefore said, he meant to propose to amend the Act

Act of the 29th of Charles II. by empowering magistrates to pay the prosecutor his expenses.

He adverted to a manifest breach of the Sabbath, which, as it seemed to have the sanction of the generality of the people, he should forbear to declare his whole sentiments upon, but would say, in general terms, that his opinion was against it—He meant the case of Journeymen Bakers, who, for the whole week, had not less than nineteen hours out of the twenty-four employed, and of course could have no time to devote to the service of their Creator but Sunday. He thought, therefore, as it had been insisted upon that the people would suffer from their not baking on Sundays, that at least a specific portion of that day (suppose, said he, from ten to one o'clock) should be allotted to that purpose. He concluded, with moving for leave to bring in a Bill to explain and amend the Act of the 29th of Charles II.

Alderman Anderson seconded the motion.

Mr. Joliffe spoke against it; he said, he conceived the proposition was absurd, and would be nugatory. It was absurd to propose that the Bakers should be compelled not to work, as an exemption from a hardship, when they had it in their own power at present to relieve themselves from that hardship, if they considered it to be one, since there was no law which compelled them to labour on that day. He imagined that the next step would be to prohibit roasting and boiling on Sundays, from which the next gradation would be easy enough, *viz.* to prohibit eating.

The motion was carried.

AUGMENTATION OF MILITIA.

The Chancellor of the Exchequer said, in pursuance of the notice he had already given, he rose to enter upon the general outline of the mode he should propose for the purpose of increasing the internal defence of the country, and the better to enable his Majesty to employ his forces with vigour abroad. In what he had to propose, he should follow, in one part implicitly, the mode adopted in the last war; he meant that of augmenting the Militia. He hardly imagined, but that, from circumstances the most obvious, Gentlemen would agree in the necessity of something like the plan he had to propose; and therefore, unless some objection was offered, he should only open the subject generally, reserving himself for explanation, if any should become necessary from the opposition and arguments of others: This he would for the moment avoid, because he did not wish to consume time; and because he was confident that Gentlemen would feel, that there never was a period in which vigour at home and abroad was more necessary, on the part of
Great

Great Britain, than the present. In the last war, the measure of augmenting the Militia was adopted, and proved a very successful one; he had no reason to doubt that it would be equally successful under the present circumstances of the country. It was deemed necessary at that period to resort to strong means of internal defence; his design was to follow the plan then adopted; but he meant to propose that the militia should be increased by volunteers; whether as independent companies, or by addition of men to the corps already formed, he had not yet made up his mind. That some bodies of cavalry should be formed also, appeared to him an advisable measure; and as there were many of the gentlemen and yeomanry of the country who would be ready to engage in that service, though at the same time they might not be willing to be removed from the counties in which they resided, the best plan would be to have cavalry embodied on the principle of not being liable to be removed from the counties to which they belonged, except upon occasions of great emergency. This he was persuaded would be the best security this kingdom could have in case any sudden exigency should arise. He had no doubt but that the general feeling of the House, and of the country at large, bore evidence of the necessity of our being vigorous and active at the present moment, and that our safety depended altogether on vigilance, activity, and exertion. However improbable it was that the enemy should attempt an invasion, it was our duty to make that which was the most improbable in the attempt still the more difficult in the enterprise, and finally, he hoped, impossible in the execution. The adoption of these measures, he contended, would unite the utmost confidence and security at home, with the most vigorous and effective operations abroad. He concluded by moving "For leave to bring in a Bill to augment the Militia."

Mr. M. A. Taylor declared he did not mean in the smallest degree to object to the first part of the plan opened by the Right Hon. Gentleman, which was that of augmenting the militia: The militia was certainly the constitutional internal defence of this kingdom, and its numbers should be augmented if necessary; of that necessity, perhaps, he was not so clear as the minister seemed to be at this moment; but, however, he should not oppose it, because he saw no danger in the plan. But with regard to the other part of the minister's system of what he called internal defence, by embodying cavalry all through the country, and raising another military force, he must give it his individual negative. He did not see that the circumstances attending our present situation

justified any such line of conduct. He was not one who felt such great alarm from any threatened invasion, as some Gentlemen seemed to feel, although he thought the war into which he had entered, sufficiently pregnant with calamity, difficulty, and danger; it was unnecessary for him to say more, as his opinions of the war were perfectly well known. It appeared to him, Mr. Taylor said, to be highly injurious to agriculture, and the trade of this country, that so many of the most active in the class of labour should be taken out of it, and unsuited for returning again by being for a length of time embodied in the militia. For these reasons he should certainly give the latter part of the plan just opened his individual negative.

Mr. Francis began with expressing his surprise at the different language held by ministers at different periods. At the commencement of the last session, it was held out to the House and the Public, that in a very short time the French would be driven to extremity; but now, on the contrary, after boasting on the first day of the session of our successes in the last campaign, we were represented to be in such an alarming and dangerous state, that it was necessary to take extraordinary measures to protect us from that very enemy, of whose exertions we spoke with such contempt some few months since, describing France at that time, as a country capable only of some spasmodic exertion. Let us then, seeing we are in danger (said Mr. Francis) provide the best means we can for our safety. He wished the minister to feel his situation properly, and to tell the House candidly what he felt: But he was afraid that Gentlemen who were the most forward in promoting the war, had very gloomy prospects. He was confirmed in this inference of danger, from that total absence that he had remarked of any exulting or confident expression from that side of the House, to whose feelings the Right Hon. Gentleman had so seldom addressed himself in vain, and on the return of which he had presumed so much on other occasions. The fact was, the people, in general, were in a state of despair with respect to the fate of the present war, and that was the only way in which he could account for the silence of those Gentlemen who at the commencement of hostilities received the minister's propositions with animated applause. He was sure the minister felt these observations to be true.

Mr. Bouverie said, he would not have risen, but in order to refute the inferences drawn by Mr. Francis, from the silence of those, who, on similar occasions, had expressed applause and assurance. He was astonished at what he had just heard; he declared he could not well conceive how the Hon. Gentleman could

could say any thing by way of construing the silence of the House into a disapprobation of the motion, when he himself, and the other Hon. Gentleman, had risen so immediately after the Chancellor of the Exchequer had sat down, that none of the favourers of the motion had found an opportunity to say a word. In fact, the Right Hon. Gentleman (Mr. Pitt) had thought the present motion so much a matter of course, that he hardly conceived it necessary to address himself either to the feeling or understanding of the House; and had declared that he could not anticipate any objection, and should reserve himself till such (if any) were made: Under these circumstances, any exulting or approving echo would have been highly misplaced indeed.

With regard to the possibility of an invasion, Mr. Bouverie said, nothing that had occurred warranted any ideas of great or impending danger: It must be recollected that such an event, though allowed by the Chancellor of the Exchequer to be possible, was regarded at the same time as hopeless and desperate in the extreme: To take precaution against improbability does not make it more probable; and to be prepared to repel a vain attempt, will at least not render such an attempt more politic. Being in a state of preparation we lessen the evil, and should at the same time thereby make its being likely to happen less probable.

Mr. Francis in explanation begged it to be understood, that he did not object to the measure proposed. On the contrary, all he said tended to admit the necessity of it. He alluded chiefly to the necessity of our seeing our danger, and providing for it as well as we could, instead of attempting to conceal it from the Public. With regard to the manner in which the minister's proposition had been received by his friends, he only meant that they did not receive what he brought forward so cheerfully as they were used to do.

Mr. Drake gave his cordial thanks to the Chancellor of the Exchequer for the proposition that day brought forward. He said he was convinced that the measure proposed by the Right Hon. Gentleman was as much in perfect unison with the sentiments of every friend of his country, as the opinions of the Gentleman who followed him were at eternal variance and discord with them.

Mr. Burdon said, he thought the present war to be of a very peculiar nature, and that if similar measures had been before adopted without any kind of alarm to the country, no such alarm should now be raised. The enemy with which we were engaged, might, by a momentary act of desperate violence, make that attempt against which it was now proposed

to provide. Desperate and improbable as it was, to provide against it, neither would make it more certain in fact, or more successful in the event, but would in all probability produce an effect directly contrary. To take a timely and wise precaution, was no proof of sense of danger or alarm. If the invasion should take place, and fail, as it was most likely to do if attempted, a greater degree of evil will necessarily and unavoidably be felt in those parts where the attempt is made than in any other: The better, therefore, we are prepared, the less will that evil be, as the enemy will be the sooner defeated.

Mr. Burdon said, it had last year been proposed to raise volunteer companies in many parts of the kingdom, which he had then opposed as unnecessary; but under the present circumstances of affairs, he thought them highly useful.

Mr. M. A. Taylor wished to know if the present Bill was meant to include any thing concerning the volunteer companies.

The Chancellor of the Exchequer said it would be entirely confined to an augmentation of the privates of the militia.

Sir M. W. Ridley asked whether the augmentation proposed was to take place by ballot or volunteers?

The Chancellor of the Exchequer answered, not by ballot.

Mr. Cocks said, he entirely approved of the measure proposed by the Right Hon. Gentleman; and he returned him his sincere thanks for the various measures he had adopted since the commencement of the war, which, so far as he understood them, appeared to him to merit the fullest approbation. The present certainly was a very serious war, but he avowed that he saw no reason for despondency. He said he should not have obtruded himself upon the House, but that from the observation which had fallen from an Hon. Gentleman (Mr. Francis), that Hon. Gentleman seemed to consider silence as a mark of disapprobation.

Mr. Vanfittart informed the House, that he had just returned from the assizes at Reading, and that the idea of raising corps of cavalry through the kingdom was much approved of in that neighbourhood, and that they had entered into a subscription for that purpose, in the grand jury room, and between fourteen and fifteen hundred pounds had been raised. He, however, saw one inconvenience in raising the additional men as volunteers. If they were taken by ballot, the burden of their families would fall equally on all parishes in proportion; whereas, by taking them as volunteers, many might come from some parishes, which would then feel a heavy and partial burden in supporting their families.

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Mr. Fox professed that he rose to rescue his Hon. Friend from unmerited reproach. He said he could not help making a few observations upon the subject as it then stood before the House. We were called upon at this moment to make exertions more extraordinary than were even conceived to be necessary during the most alarming period of the last war. He understood that at present the House was only called on to pass a Bill for the augmentation of the militia, as they did last war, but that other provisions were also to be made of a peculiar nature. The amount of this, in point of reasoning, was, that more was at present required for our own internal defence, than at the most distressing period of a very distressing war. With regard to the motion itself, he should trouble them with one remark alone, and that only for the purpose of introducing his observations on the remark of his Hon. Friend, *viz.* that the exertions proposed were of greater extent than at the period alluded to, *viz.* in the year 1779. He desired Gentlemen to attend to the difference of our situations at these two periods. On the former occasion, we stood alone against the united powers of Holland, France, and Spain, in Europe; we had been for the most part unsuccessful in our operations; our fleet was not only not superior to that of our enemies, but the fleet of France alone was very little inferior to our own, and then we were threatened with an invasion. At the present moment it had been triumphantly said that we had the assistance of all Europe against the French; and it had been so said with truth: It had been asserted also, and asserted with equal truth, that our fleet was superior to that of our enemy. It had also been confidently held out to public view, that we had been eminently successful in the last campaign. Did then the superior advantages we were now enjoying call upon us for exertions of greater extent; or was it the nature of success to render defence more necessary, or danger more imminent and alarming? Surely then the observation of his Hon. Friend was justifiable, and it must be confessed that there was an apparent contradiction and inconsistency in the words and actions of ministers. It was not very flattering to the pride of England, *Mr. Fox* said, that, with all the superiority of which we boasted at sea, the French were suffered to be entire masters of the Channel for several days since the commencement of this war. These things, he must repeat it, were extraordinary, however indisputable. At the time to which he alluded, the year 1779, there was a rumour of an invasion; and although it did not actually take place, he confessed he thought that those who apprehended it, calculated more rationally, from the probability of events in human affairs,

affairs, than those who at the time despised, or affected to despise, that rumour. He was one that thought despising danger was by no means a proof of wisdom; but upon a comparative statement of our danger last war and our danger in the present, it would appear that the exertion made at this day was greatly disproportioned to the comparative pressure of the occasion, for there was then real and substantial ground for apprehension of danger, and little or no ground of apprehension of danger at present. Mr. Fox said, he thought it necessary to make these few observations, in order that Gentlemen might dispose their minds a little to reflection, instead of running away with the torrent of popular clamour. Having said this, he must beg it to be understood, that to the measure of augmenting the militia he made no opposition; with respect to the other parts of the plan, as opened by the minister, he had nothing to object to them at that moment; they would be fitter for discussion when they came before the House in the shape of distinct propositions, and he should reserve his sentiments till that opportunity.

Mr. Ryder said, he thought the observations he had just heard were rather extraordinary, when they came from those who had, since the commencement of the war, asserted repeatedly that the whole campaign was a disastrous one: If they were right in that respect, he apprehended they could not consistently at the present oppose any measure which had for its object our own safety. Gentlemen should remember, that ministers had always thought, and always asserted, that the exertions of the French, though extraordinary, prodigious, and most astonishing, were from their nature such, that they could not continue for any long period; that the present Convention, or rather the governing faction in that assembly, had made most wonderful momentary exertions, much beyond indeed any thing that had hitherto been known in the history of the world; that, in those momentary exertions, they were capable of doing immense mischief to their enemies, and of proposing plans, of whose success they had no expectation, solely for the purpose of annoying the hostile powers, at any expence or any loss to themselves. Gentlemen should consider it was the interest of those who led the French people, or rather who drove them, to keep up a degree of temporary enthusiasm, which often led to victory; but there were sufficient reasons for hoping that the French would not ultimately be successful. After a severe repulse, it was natural to conclude, from the genius, temper, and character of the French, that despair would force them into an opposite extreme; if the fact was so, and he thought it more than probable, what must be

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be the result of a system pregnant with seeds of self-destruction?

Mr. Fox rose to explain; and said, he should wish the Hon. Gentleman another time, when he did him the honour of animadverting on any of his arguments, would quote him fairly, and not draw his own conclusions, and make them to be the conclusions of his opponent. In the present instance, the Hon. Gentleman had very sophistically foisted into his (*Mr. Fox's*) assertion respecting an offensive war, the words, of course, a defensive: This consequence he never drew, and was amazed any man could derive such a conclusion from the premises he had endeavoured to establish. He had misrepresented the arguments in another way; he had ingeniously chosen to make him (*Mr. Fox*) appear as if contradicting himself at different times with regard to his sentiments on the war, and our danger; not at all perceiving that his present arguments were rather *ad homines* to the minister's than his own opinions, nor recollecting that he had been equally accused of under-rating the danger to be apprehended likely from an invasion, as of over-rating the ill success to accrue from our operations on the continent.

Mr. Grey said, if his Right Hon. Friend had not taken notice of the fallacy of the Right Hon. Gentleman's reasoning, he should have done it. At present, he only wished to call to the recollection of the House, that they had invariably, from the commencement of the war, been entertained with the same assertions of momentary exertion; but these momentary exertions had been continued during a whole campaign, and continued with such success, that ministers, if not in words, at least by their actions, seemed to declare we were in a worse condition, and had more to apprehend, than at the commencement of the war; for what other conclusion could be drawn from their conduct on the present occasion, but that they thought the country stood in need of a larger scale of defence than had been stated to be necessary at the commencement of hostilities, and of course that the country was in a worse state and more defenceless condition than when the war began.

The motion was then put and carried.

TREATIES.

Mr. Whitbread, jun. rose, in consequence of a notice he had given, to desire the attention of the House to the different Treaties which had been entered into between his Majesty and the different powers of Europe since the commencement of the present war, and which had been laid before the House.

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He said it was not his intention to dispute that part of the prerogative of the Crown, by which his Majesty was entitled to contract alliances with foreign powers; he meant only to enforce a principle which was well known in the constitution of this country, and to assert a right which was incontrovertibly inherent in that House, namely, to take such alliances into consideration; and, if they found it necessary for the safety of the country, or for the general welfare of the people, to carry up to the Throne an Address expressive of their disapprobation of such alliances, and their advice to discontinue them. It was because he felt for the prerogative of the Crown, and because he felt the necessity of using the power of the Commons upon these great constitutional points, that he came forward at this moment to submit to the House the motion with which he intended to conclude, together with the reasons which induced him at this time to make it.

In the discussion of the present question, Mr. Whitbread said, he would avoid inquiring into the grounds of the present war, or the reasons which induced the country to engage in it; for though he still remained in the same opinion, which he had expressed in the last session of Parliament, that the war was unjust, unnecessary, and destructive, yet, for the sake of the argument on the present occasion, he would admit it to be, what ministers had been pleased to term it, *just and necessary*, and a war of *unprovoked aggression* on the part of France. Neither would he dwell on those topics which were so artfully held forth to inflame the public mind, to incite the mind of the people to animosity against the French nation, and draw from them their consent to the war; but would content himself with barely reminding the House, that the same opprobrious epithets, the same virulent invectives, as had been lavished on the French, had, upon former occasions, been bestowed on some of the greatest and best men that ever were engaged in an illustrious struggle for liberty. That great and good man the Prince of Orange, whose virtues no person would deny to have been great and exemplary, in the Proclamation against him by Philip II. was loaded with all the opprobrious epithets that enraged tyranny could invent. The same line of practice had also, he understood, been adopted against the Americans in the course of the American war. All the epithets of immorality, irreligion, deism, atheism, oppression, injustice, cruelty, assassination, confiscation, plunder, confusion, anarchy, despotism, tyranny; all these words had been reiterated against the Americans. It was thought advisable by the advocates for that war, to signalize and libel the whole body of the people. That artifice had a temporary effect; but the House and the

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Public knew too well in what it ended; and therefore, when these epithets were employed indiscriminately against the French people, he must say they were libelled, grossly and scandalously calumniated; and all for what? To prove what no rational set of Beings ever doubted, the existence of a God. But it was not for that purpose that all these epithets were used. The Christian religion was made a cloak to hide the intentions of certain persons who hated any thing like liberty amongst mankind; and they had the words Christian Religion perpetually in their mouths, while in their hearts they detested its purest principles; and by their actions violated its best precept—"Do unto others what you would others should do unto you."

Whatever might have been the ground of war on our part, and however we might support our charge of aggression from the French, it could not be said, on the part of Austria and Prussia, that the war was an aggression on the part of France: The treaty of Pilnitz must be an incontrovertible argument against any such assertion; yet we had entered into a confederacy with the framers of that treaty, and bound ourselves to go as far as they are pleased to lead us. In the affairs of private life, a man may be induced to commit a murder to prevent some other violation of the laws of civilized society; but is any man prepared to say, that he is ready to go as far as the sanguinary disposition of the murderer might be willing to lead him? The motives of Austria and Prussia were inordinate ambition, cruelty, and rapacity. We had seen the effect of them. We had heard the sanguinary principles that were maintained in the pursuance of them, by which these despots betrayed their intention to all Europe too soon to be useful to the infamous cause which gave it birth. We had all afterwards heard of, and read the never-to-be-forgotten or forgiven Manifesto of the Duke of Brunswick; a publication which no good man could read without horror. Then followed the fruits of this abominable system in the infamous division of Poland. And notwithstanding we affected to lament the partition of Poland, and various other instances of unbounded ambition and unprincipled conduct in these courts, Great Britain had entered into alliance with these very powers! This was alarming to a people who had any esteem for the principles of justice! For, notwithstanding all our professions of moderation, with such parties it is notorious to Europe we were now engaged! We had another ally of equal honour for political integrity, the Empress of Russia, a Princess who had proved from her conduct, since the commencement of the war, that her only aim was to keep the whole South of Europe in confusion, the better to enable herself

to pursue her ambitious schemes. Let Gentlemen then consider what is the common object of the Combined Powers now at war with France. Have they published any thing as to the object they had in view in the present war? Has any one of them defined his object? Or have they not in turn regularly contradicted each other, and as often contradicted themselves? Our object, indeed, as stated in the King's manifesto, was declared to be indemnity and security. Even these words were of such extent, as to be capable, under certain circumstances, of bearing any interpretation; for no man could say what they might be said to mean when applied against a conquered nation.

But in what situation were we ourselves in consequence of the alliance we had entered into? If we adhered to the assertion, that we would upon no condition whatever treat with France under a republican form of government; at what period did we expect to be able to treat with the French? If, on the other hand, we might be willing, on our part, to treat with the French as a Republic, provided the present rulers, and the present sanguinary system, were no more known or heard of, could we conceive that Austria and Prussia, who began the war, would agree to any terms with a Republic? would they, who have made a common cause of crushing the form of government in France in the year 1789, ever be brought now to agree even to that form of government? And how could we think of continuing in the combination, against such a form of government as that established in France in the year 1789, if the French should ever adopt it? For that constitution we had already declared our partiality; we had pledged ourselves, by the conduct of our Commanders at Toulon, to accept the constitution of 1789; and if any person would contest that point, he was ready to demonstrate it from the Declarations of Lord Hood and General O'Hara to the Toulonese. Lord Hood in his Proclamation expressly declares, that he takes Toulon in trust for Louis the XVIIth, King of the French, not King of France and Navarre; and in strict conformity with the terms proposed by the people of Toulon, who had expressly stipulated for the restoration of the constitution of 1789, as accepted by their late King; and this agreement General O'Hara, by the directions of the King his master, recognises and assents to. By these negotiations most indisputably we were pledged to the whole people of France, as well as to the people of Toulon, to maintain and restore the constitution of 1789, and to conclude a peace with that country, if they should make an offer of the acceptance of that constitution, as the condition and foundation for the treaty.

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Austria, however, it was obvious, would not assent to the constitution of 1789; since General Wurmser, in one of his Declarations, calls it a *detested* constitution; and the Prince of Saxe Cobourg, after having in his Manifesto promised to restore that constitution, in so short a period as four days afterwards recants that declaration, and positively says, it is impossible it can be restored consistently with the security of Europe. In short, there was no reliance to be placed on any one promise of these royal dealers in human flesh. Else why did the King of Prussia not remit that execrable, blood-thirsty, malevolent, and furious cruelty, he had exercised, and now continues to exercise, on an individual? (La Fayette.) Blood-thirsty, malevolent, and furious cruelty it was, that had never been surpassed in infamy by any ferocious tyrant of ancient Rome, or from the days of Roman tyranny, down to the tyrants of the present day. Such was the treatment which the defender of the constitution of 1789 was to receive from the King of Prussia! And such was one of the allies of Great Britain! Great Britain in fact was in alliance with Powers and Potentates who set political faith at defiance! With the plunderers of Poland had we agreed to carry on a war for the destruction of France; and he would venture to declare it as his firm opinion, that if the views of this detestable combination had been successful in the first campaign against the French, the liberty of Europe would have been as its last gasp, and would ere this have expired! With such Powers were we leagued!

In the common affairs of human life, Mr. Whitbread said, these actions would have been deemed so infamous, that mankind in general would have agreed that they ought to be resisted, or there must inevitably be an end to all social intercourse; but the conduct of Sovereigns was not, it seemed, to be judged of by the same rules of justice. We had made a common cause against France; and upon the same principles we might make a common cause against Poland; and a common cause might be afterwards made against us. A Right Hon. Gentleman (Mr. Burke), whom he was sorry not to see in his place, had, when a Right Hon. Friend of his (Mr. Fox) mentioned Poland, declared he would, if it were in his power, march to her assistance, and rescue her from the violence of her ravisher; yet that Right Hon. Gentleman could applaud the very same infamous ravishers when they turned their arms against France. It was now called a common cause for justice, for humanity, for law, for order, for the Christian religion; whereas, in point of truth, it was a common cause against them all; and these fine expressions were made use of,

as a cover for the most infamous designs, to delude the thoughtless into a combination with the wicked; to turn honest zeal for a good cause into blind fury for a bad one, and resembled the celebrated artifice of Saint Bernard, who says—“But what an occasion is now offered for the pardon of your sins?—truly it is an invention worthy of the divine goodness! None are excluded! murderers—thieves—adulterers—all are called. Turn then your swords no more against one another—the common enemy presents his breast to you; confess your sins; take up the cross, and march against him.” This, indeed, was a common cause too disgraceful for Great Britain to be concerned in; for freedom knew of no common cause to assist in the establishment of slavery. The freedom of England must not be employed to assist plunder, rapine, and murder.

The treaty with the King of Sardinia, by which we were bound not to lay down our arms without the restitution of Savoy, had been much noticed and most deservedly so, for it was a very singular and a very extraordinary treaty, considered in every possible point of view. Let the House recollect, that the irruption into Savoy was made long before the British nation engaged in the war. The Sardinian Ambassador applied to the Genoese to interfere on the spur of the occasion; Lord Robert Fitzgerald, the British Envoy there at that time (in Oct. 1792), desired the Genoese to preserve a strict neutrality. He was surprised, then, how Gentlemen could pretend to argue at this moment, that the restitution of Savoy was necessary to the security of Great Britain.

The present war had been termed a war for the preservation of civil society; So far was this from being true, that it was notorious, we had in many instances acted in a manner that tended to break the bonds of society asunder.

It was not less well known, that many powers in Europe would have observed the strictest neutrality, if they had not been compelled to join the league in this moral, religious war. It was an extraordinary circumstance, he said, to reflect upon, that a league of Austria, Prussia, Sardinia, Spain, Holland, Russia, and Great Britain, had subsisted for a considerable time against France alone, and yet at this very moment every power in the whole combination was in a worse relative state with regard to France, than at the commencement of the war. Even Great Britain, the most abundant of them all in resources, had that very day in that House been obliged to make more extraordinary provision for its own internal safety, than at the commencement of the war. Of all this, what was the natural inference and conclusion? but that Austria and Prussia, and
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the rest of the league, are more exhausted than we are; and that a war with *an armed nation*, is but a war which in the nature of things no combination upon earth can render successful.

A Right Hon. Member (Mr. Dundas), whom he did not see in his place, Mr. Whitbread said, had stated some time since, that it was the duty of his Majesty's ministers to call down all the powers of Europe on the French. That duty his Majesty's ministers had endeavoured to fulfil, and to enforce it at the point of the bayonet, to the disgrace of the nation, notwithstanding their reprobation of the same conduct on the part of the French.

Supposing however, for the sake of argument, that we were successful in crushing the French altogether, what prospect had this country afterwards of peace? Could we suppose, if success had attended the combination against France in the first campaign, that we should not by this time have had a quarrel with some of our allies? Could we suppose that such sanguinary tyrants would, on their success against the French, forget at once all their principles of despotism; and that the constitution of this country would never have been in danger after they had imposed a tyranny on the French? Our interference in the affair certainly came at a very unseasonable period. Would to God his Majesty had been advised to attend to the situation of Louis XVIth of France, at the time the pressing requisition was made by that Monarch! He really believed that affairs were then so situated, that the lives of the unfortunate King and Queen of the French might have been saved, and Europe have been at peace at this hour: In every view that he could possibly take of our situation at present, he saw much danger from the combination in which we were now engaged: The only thing remaining for him would be to suggest to the House for the present, what appeared to him to be the best advice that House could give to his Majesty. This, in substance, was to extricate him as soon as possible from the whole of the combination in the present war. This was not at all difficult; there were precedents for such a measure, and the necessity of the thing would justify itself in the absence of all precedent: Few of the powers would have reason to complain, and least of all, the Empress of Russia, for she had not made good any of her engagements or promises in the league. With regard to the hackneyed question, Who we were to treat with in France? there never appeared to him the smallest difficulty upon that subject, because all negotiations from their nature were set on foot for the purpose of treating with those who had the power to negotiate; and if a treaty

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was carried on and concluded, those who succeeded in power would of course be obliged from necessity to observe it: This was the case every day, and must in the nature of events be so. Whatever should be the fate of his motion, Mr. Whitbread declared, he should rest satisfied with the consciousness of having done his duty; and if he should be unsuccessful, he trusted that one of his Hon. Friends would make a specific motion for a peace with France. He concluded with observing, that it was very generally believed, the King of Prussia had demanded of this country a subsidy of seven or eight hundred thousand pounds, as the price of continuing the war; and then moved,

“ That an humble Address be presented to his Majesty, to represent to his Majesty, that his faithful Commons, having taken into their serious consideration the various engagements which have, by his Majesty's command, been laid before this House, cannot forbear to express their deep concern that his Majesty should have been advised to enter into engagements, the terms of which appear to this House to be wholly incompatible with the declarations repeatedly made to this House from the Throne, relative to the professed objects of the present unfortunate war.

“ To represent to his Majesty the affliction and alarm of his faithful Commons, that his Majesty should have been advised to make a “common cause” with powers whose objects are unavowed and undefined, but from whose conduct his faithful Commons have too much ground to dread that they carry on war for the purpose of dictating in the internal affairs of other countries; views which have been repeatedly and solemnly disavowed by his Majesty and his ministers, and which are utterly abhorrent from those principles upon which alone a free people can with honour engage in war.

“ To represent to his Majesty, that if the present war had been, what his Majesty's Message in the last Session of Parliament stated it to be, a war of aggression on the part of France, and of defence on the part of Great Britain, that, by a treaty previously in existence between his Majesty and the King of Prussia, the co-operation and assistance of that Power were ensured to this country.

“ That it does not appear to this House, that the succours stipulated by the Defensive Treaty of 1788, have been required by his Majesty; but that a Convention has been entered into, the stipulations of which have no other tendency than the involving us in schemes as foreign to the true interest, as they are repugnant to the natural feelings of Englishmen; and of imposing a restraint upon his Majesty's known disposition, to
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avail himself of any circumstances which might otherwise enable him, consistently with the honour of his Crown, and the welfare and security of the country, to relieve his people from the present burdensome and calamitous war.

"To represent to his Majesty, that the irruption of the French into Savoy, and their possession of that part of the dominions of the King of Sardinia, did not appear to his Majesty so far to endanger the balance of power in Europe, as to induce his Majesty on that account to commence hostilities against France. That his faithful Commons do therefore express their disapprobation of that part of the treaty recently concluded between his Majesty and the King of Sardinia, by which his Majesty is bound not to lay down his arms until the restitution of Savoy shall have been accomplished; a species of engagement which it can at no time (excepting in cases of the greatest emergency) be either prudent or proper to contract, and much less for an object which was not deemed in his Majesty's wisdom to be so connected with the interests of this country, as to occasion a declaration of war, and which cannot now be considered by his faithful Commons as of sufficient importance to be made the indispensable condition of peace.

"To represent to his Majesty, that it appears to his faithful Commons to be the general tendency of these engagements to involve us in connexions of undefined extent, for objects which we disapprove and have disavowed, and this with powers on whose principles of equity and moderation we are instructed by experience to have no reliance, and whose complete success may, in our opinion, prove fatal to the liberties of Europe.

"To represent to his Majesty, that, having thus expressed our sentiments upon the engagements which his Majesty has been advised to contract, we feel it our bounden duty most humbly and earnestly to implore his Majesty to consider of such measures as to his royal wisdom shall seem adapted (consistently with that national faith which in common with his Majesty we desire to preserve religiously inviolate) to extricate himself from engagements which oppose such difficulties to his Majesty's concluding a separate peace, whenever the interests of his people may render such a measure adviseable, and which certainly countenance the opinion that his Majesty is acting in concert with other powers for the unjustifiable purpose of compelling the people of France to submit to a form of government not approved by that nation."

Mr. Jenkinson said, that after the most attentive consideration he had been enabled to give to the speech of the Hon. Gentleman,

Gentleman, he was at a loss to discover a single plausible objection to any of the treaties alluded to, except that with the King of Sardinia. He could not guess the grounds of the motion, except as far as it related to that treaty. Much of what had been advanced by the Honourable Gentleman was clearly irrelevant to the subject, although many of the topics touched upon had been confessedly important in their nature. The Hon. Gentleman had not confined himself to the consideration of the motion with which he had concluded, but had thought proper to enter into the investigation of the conduct of Great Britain towards neutral nations, and of the general circumstances which had attended the commencement and the progress of the war. Through that wide field of disquisition it was no part of his intention to follow the Honourable Gentleman, but strictly to confine himself to the question before the House. Mr. Jenkinson declared himself perfectly prepared to shew, that hostilities with France were justifiable in their commencement, and necessary to be continued, were there any occasion for such an argument. One position, however, had been laid down by the Honourable Gentleman, on the basis of which some objections had been raised to the treaties in question; an argument so fallacious, that he conceived himself bound to expose it; and by so doing, all the arguments which were founded upon it would of course fall to the ground.

The war in which the Combined Powers were engaged, had been denominated a War of Aggression on the part of Austria and Prussia against France, on account of the stipulations contained in the Convention of Pilnitz between the former states. So far was this from being the case, the Convention of Pilnitz had no views of ambition whatever. It was generally held as a principle, that after an act, no blame was imputable if the causes of that act were removed; let it therefore be remembered, that, subsequent to the treaty at Pilnitz, the Emperor had declared, that as the French King had accepted the constitution proposed by the Assembly, he would withdraw his forces; and this declaration he confirmed. In conformity to certain principles laid down by high authority (Mr. Fox) he would contend, that an injury sustained, unless accompanied with a positive refusal of satisfaction and recompence, was no proper or justifiable cause of hostility; and, examining the treaty of Pilnitz according to that criterion, he had no hesitation in saying that France was not justified in going to war on account of that measure. The object of the treaty at Pilnitz was to free the late unfortunate King, by force of arms, from the bondage in which he seemed to be held previous to his acceptance

acceptance of the constitution of 1789, and not to aggrandize the contracting parties at the expence of an independent country. When Louis the XVIth had accepted the constitution, and had notified such his acceptance to the different Powers of Europe, the Court of Vienna shewed every disposition to retreat from the stipulations at Pilnitz, received an ambassador from France, and intimated to the Electors of Mentz and Treves, that if they permitted the levies of emigrants within their territories, it must be at their own individual risque, independent of any assistance or support from the Germanic Body. All these circumstances tended strongly to demonstrate the peaceable intentions of Austria; and the surest proof of their desire of neutrality might be found in the conduct of the then French minister, who had relinquished his situation, as he saw his country about to be precipitated into a war from the violence of the Jacobin faction. The case of Prussia, Mr. Jenkinson said, was in all respects similar to that of Austria. Having thus discussed the preliminary point of aggression, he would next proceed to examine the treaties with those two Powers, and that with the King of Sardinia, in their order. It appeared to him requisite, in the first place, to persist in the opinion formerly stated, that, when a country was unfortunately involved in a war, it became indispensably necessary to form as strong and as numerous alliances as possible, in order to distress the enemy, and to protect ourselves.

To shew the policy and expediency of the treaties under review, it would be requisite for him merely to draw the attention of the House to the two principal articles which they contained. By one of these articles, we had contracted with the Emperor and King of Prussia to make our cause during the continuance of the war the same with that of the Court of Berlin. This article, apparently at least, presented the most efficacious means of prosecuting the contest; and as it was only meant to remain in force during the continuance of the war, it had at the same time in view the securing to us that indemnity and safety which was avowedly our greatest object. We had pledged ourselves by another article not to lay down our arms till France had restored to the Allies all the possessions which she had wrested or might wrest from them in the course of the contest. In this stipulation there was nothing unreasonable or impolitic; for, considering the case as it stood between Prussia and Great Britain, there was no material disadvantage which could accrue to either party, as it was not probable that France would be able to keep a permanent hold of the possessions of either the one or the other; and though the risque as to the Emperor was indubitably greater, yet the security

rity of his dominions in the Low Countries, which were most exposed to attack, was as essential an object to Great Britain and the United Provinces, as to the Emperor himself. Holland could never enjoy repose while the Austrian Netherlands were in the power of France : And if our great rival in trade should obtain the port of Ostend, the extensive and lucrative commerce we were accustomed to carry on with that town would be entirely annihilated. Considering, therefore, the whole of these transactions as mere matters of bargain and contract, they were highly beneficial to the country.

With regard to the treaty with Sardinia, it might be viewed merely through the medium of policy ; but notwithstanding what had been alledged against it, he would maintain, that the expenditure of 200,000*l.* a-year was a wise and politic measure on our part. If France conceived that hostilities would be obstinately enforced in Savoy, that circumstance alone would oblige her to retain a powerful army in Savoy. The exertions of the enemy against the Austrians and Prussians would thus be considerably weakened, and Savoy be ultimately preserved to Sardinia. The subsidy therefore given to the King of Sardinia was not, in his opinion, more than equal to the value of the purchase. Should France offer to Sardinia favourable terms of pacification, it was our interest to prevent those terms being accepted, by holding out terms still more advantageous to that country, on condition of their continuing the contest. The House should recollect, that the King was subsidized, not as a powerful Prince, having great resources in himself, but as a check to France in their views on Italy, and hence rendered of infinite importance in such a contest as the present ; even supposing the King of Sardinia to be beaten in every battle, it would still be in his power, by creating a diversion, to weaken the general power of the enemy.

It had been hitherto considered as the essential duty and interest of this country to guard against an extension of territory by France ; he would ask, was that system to be totally abandoned ? or, without entering into the detail or condemnation of French principles at the present, whether she is less dangerous in the excess of power and dominion as at present circumstanced, than she would have been formerly ? Should that nation be permitted to extend her conquests, when, in union with her former ambition, she was actuated by a set of immoral and irreligious principles, which rendered her, in his opinion, doubly formidable ?

The conduct of Prussia towards Poland, Mr. Jenkinson observed, was not the present object of inquiry ; but all the observations on that head might be answered by putting the
common

common, though conclusive, case, that your next-door neighbour's house was on fire, and one at a mile's distance, and then asking which of these a regard to our own interest required us to extinguish first. Let him, therefore, be ever so much disposed to condemn the immorality and the injustice of the partition of Poland, he did not see that the justice or necessity of the war were at all affected by that transaction.

Recurring once more to Savoy, he begged leave to observe, that the refusal of France to restore that country to Sardinia, was ever deemed a sufficient cause of hostility; and we therefore were called upon to insist upon its restitution, as one of the preliminaries of peace.

Mr. M. A. Taylor asked, Whether the question proposed by his Honourable Friend, relative to the King of Prussia's demand for a subsidy, was true? He said he should support the present motion, as he had always objected to treaties with Russia and Prussia, because the absolute government of those countries being directly contrary to the limited monarchy of this, their objects must necessarily be distinct. He was sorry that he could not speak of Prussia as he wished; but thus far he would venture to say, that an alliance with either of those monarchs, who had rendered themselves odious to mankind by their fraud and plunder of Poland, was a disgrace to us. Their actions, it had been said, not being immediately apposite to this country, could not affect us. He declared he would maintain the converse of this proposition, and assert that they did affect us, and very materially, if we were to be considered as a free nation. France had undoubtedly a right to chuse her own form of government, and make such internal regulations as seemed convenient and just, without any interruption or restraint from foreign powers. He believed, with the Hon. Gentleman who spoke last, that we were not bound hand and foot to go as far as our allies should wish us; but still he should affirm, that Prussia was the aggressor, that the Monarch of Berlin was desirous of coming in for a slice of France, and had probably preconcerted with that *excellent and pious* woman, the Empress of Russia, for that purpose.

Mr. Taylor lamented that he was not present when the treaty with Sardinia had been discussed, but at that time he was engaged with his constituents in the country, or otherwise, *though he could not tell what had passed in that debate*, he should have been in the minority. (*A laugh.*) He explained himself, because he conceived the treaty with Sardinia to be an obligation for the prosecution of the war, which he had always disapproved of. He wished that the Gentlemen that day assembled, who were possessed of landed property, would deliberately

berately examine the poor rates, and reflect upon the number of reputable families that were daily reduced to an application for relief from their respective parishes, which misfortunes were entirely occasioned by the pressure of the war. Should such an examination fairly take place, many of them, he had no doubt, would follow his opinion. For his own part, he had no great landed estates (*a laugh*), and he was glad that he had none (*a laugh still louder*); but the farmers in his neighbourhood had informed him, that unless their grievances were redressed, unless the poor rates were reduced, and the taxes less oppressive, they should be obliged to quit their farms. He knew that the present war was no less fatal in its consequences than that with America, and he feared that it would last as long.

Sir Gregory Page Turner rose with his characteristic zeal, and contradicted the Honourable Gentleman in his statement of the distressed condition of the lower order of the people. *Sir Gregory* entered into a panegyric upon some expressions of *Mr. Burke*, in a former debate, whose name he declared ought to be written in that House in letters of gold. He said he had not opened his mouth before this session, though he had constantly supported the war in the strongest manner with a silent vote. He was both willing and ready to submit to any taxation the minister should be pleased to impose, and for that purpose would, in concert with the other Gentlemen of that House, deliver in an exact and regular detail of his property. He did not mean a particular compliment to the Chancellor of the Exchequer, but he certainly had a high opinion of his integrity, which he extolled in terms of strong eulogium. What was equalization?—The French had talked of equalization, but in truth he supposed they wanted to make an equal partition of property. Every body knew that he had not much landed property, but what he had he should not like to share with those fellows. He was an insignificant Member, as the House supposed him to be, and could not say much to the purpose; but he had two or three good coats, which he supposed the French also would like to take, and leave him only one. He supposed too, that men who had no money, would scramble for all they could get; and those that had but ten pounds might want a hundred, or perhaps two hundred, he could not tell. [*During the whole of this speech the House was convulsed with laughter, and the Speaker was obliged to force an air of gravity to command order.*] The Honourable Baronet wondered why the Gentlemen enjoyed his speech so much, since he did not pretend to humour. These were, he said, his real sentiments which are—which are—which are—(*another fit of laughter.*)

ter.) The war—Much had been said of the war; it is the war of Europe: It is—a war!!! We had engaged in this war not for attack, but defence, to secure our property, our lives, and honours.

The question was then about to be put, when

Mr. Fox said, that he thought himself bound, in the first place, to return his most cordial thanks to his Honourable Friend, for the able and eloquent manner in which he had brought forward the motion; and, next, to give it every degree of support and countenance which it was in his power to bestow. An answer to a very small part of his Hon. Friend's speech had been attempted to be given by an Honourable Gentleman (*Mr. Jenkinson*); but those arguments, which had been deduced from the general distress of the country at the end of what had been most falsely called the tenth year of unexampled prosperity, from the consideration of the enormous and increasing burdens under which we groaned, had been passed over in silence, and that for a reason sufficiently obvious, *viz.* because they were irrefragable and unanswerable. Independent of any remark with regard to the origin of the war, on which so much had already been said, it still remained for them to examine into the manner in which the war was conducted, and into the views of those with whom we carried it on. It was impossible, by any sophistry, to evade the conclusion, that Austria and Prussia were the fomenters of this contest, by the stipulations of the treaty of Pilnitz; a treaty which had for its object an unwarrantable and impious purpose, namely, the destruction of an independent state, by lawless and insatiable ambition. When this was considered, every principle of reason and morality loudly called upon us to balance the advantages we might reap from such an alliance, with the shame and disgrace attendant upon any engagement with those with whom we had connected ourselves. It had been said in respect to Poland, that when our neighbour's house was on fire, it would be ridiculous to run to extinguish a fire some miles distant. *Mr. Fox* begged leave to continue the allegory, and ask whether it would be commendable in a man, when he found his neighbour's house on fire, to call in a band of plunderers and robbers to his assistance. Rather than make a common cause with them, either by pumping the engine, or even handing them a bucket, *Mr. Fox* said he would hazard every danger to which he might be exposed by the conflagration.

According to the treaties existing between this country and Prussia, we were bound only to assist his Prussian Majesty in a defensive war. He was aware, however, of the quibble that might be resorted to in order to justify the measures we had taken,

taken, though in reality our assistance was given to support an offensive rather than a defensive ally. He alluded to the treaty between the King of Prussia and the Emperor, which was entered into long after the negotiation with England, whereby the King of Prussia engaged with Austria in the provocation of France, and then claimed our assistance to defend her from the enemy she had raised. There was a time when Poland was considered of the utmost importance, though that consideration no longer existed. There was a time when the situation of Poland, her commerce with this country, and her alliance, were all valued; but circumstances had changed our opinions. Were we to shut our eyes to the perfidy of those Powers with whom we had contracted alliances? Where was the instance in the French Convention, or the Jacobin Club, that could match the perfidy of the King of Prussia to Poland? He not only encouraged the Poles in modelling their constitution, but he publicly congratulated them on having made their monarchy hereditary in the family of his relation the Elector of Saxony; and in twelve months after, he audaciously abandons every principle he had sworn to maintain, opposes the hereditary claim of Saxony, declares that the revolution in Poland had given just cause of offence to the Empress, and secretly and perfidiously co-operates with Russia for a share in the plunder of Poland thus shamefully betrayed. Talk of France! Is there among all the reprehended freaks of madness, among all the atrocities of that deluded nation, is there one action so guilty, so deliberately guilty, so premeditated, so abominable as this conduct?

When negotiation with France was the question, and the Republic and its rulers were concerned, we were particularly reminded of the wickedness of the individuals who directed the affairs of that distracted country, and an appeal was made to every moral and religious principle in our nature, in order to excite our indignation; and they were told, "Think not of France as a nation, look not to general maxims of policy, consider only the morals and characters of the men with whom you must negotiate."—When the conduct of our Allies was mentioned, we were told, "Think not of the cruel and perfidious dismemberment of Poland, look only to the present object, and the aid they can afford you to obtain it." The obvious inference was, that to the vices of those who dwelt in Courts, and who filled, or rather dishonoured, Thrones, we were to be wilfully blind; and while the wickedness of the Anarchists was to provoke us to hostility, the infamy of the Monarch was to secure him our friendship and alliance. They had been seriously told, that they were contending with all

Europe

Europe for the cause of all civil society, while the Sovereign of one of the most potent States engaged in this momentous conflict, was detaining, in a tedious, gloomy, and hopeless captivity, a virtuous and meritorious individual (M. de la Fayette), in equal contempt of the laws of nations, and the common dictates of humanity. When he spoke of Kings, he desired always to be understood as speaking of Courts and Cabinets, for he held it to be in general as true in other countries as in this, that for the actions of Princes their ministers were responsible. But what could be said of men who, while they were guilty of such actions, affected to be under the benign influence of Christianity, and the dictates of sound morality, but that they were shameless hypocrites; who, arrogating to themselves the possession of the finest feelings of our nature, were indulging the worst passions incident to man—hatred and revenge. It was in vain that we had virtue, humanity, religion in our mouths, while passion and malignity were rankling in our hearts, and displayed in our actions. In extenuation, or rather in excuse, of the treatment which this unfortunate gentleman had received, it had, as he understood, been alledged by the Court of Prussia, that M. de la Fayette was the prisoner, not of one state individually, but of all the Combined Powers. This assertion, though frequently made, he believed to be untrue; but at any rate, it was incumbent upon Great Britain, as she valued her dignity and honour among nations, to disclaim all participation in a conduct so derogatory to the principles of sound policy, and so contrary to that sympathy for unmerited calamity, by which Great Britain had hitherto been so honourably distinguished.

We had publicly approved of the constitution of 1789; since we had not only approved of it, but had acted upon it. When Lord Hood sailed against Toulon, he had received orders from our Government to acknowledge that constitution; and when Toulon was surrendered, the surrender was accepted under the constitution of 1789. It was by that rule of law we promised to guarantee the Toulonese, until the restoration of Louis XVII.; and though words in general were not to be regarded, in Lord Hood's declaration the words were so clear, express, and intelligible, as to confirm the allegation: For, instead of giving the ancient hereditary title of his ancestors to Louis XVII. calling him King of France and Navarre, we acknowledged him only by the title which the Constituent Assembly had given him, namely, that of King of the French. This was the exact spirit of the letter of the treaty, and on the spot where we acted a part to stand as an example to the rest, we confirmed every proceeding of the Constituent

Constituent Assembly of 1789, not only in regard to measures but to words, for we retained the municipalities, &c. &c. of the names and customs of which Mr. Fox professed not to have a complete knowledge. What justification then remained for us, when, at the very time we confirmed the constitution of 1789, we suffered one of its most illustrious founders and supporters to languish in a dungeon, without a crime imputed to his charge? With how much more effect might he have been sent commissioner to Toulon than Sir Gilbert Elliot? But mark the horrible contrast between our words and our actions—While we were holding this language to the people of Toulon, he who loved rational liberty, who loved his country and his King, who had sacrificed, in their defence, his friends, his country, and what he prized, if possible, above all these, his popularity, in fact, all that makes life desirable, was languishing in one of the most loathsome dungeons of a Prussian prison, for that very constitution we approved of.

The conduct of Great Britain was singular: For at that very time in which we acted on the principles of the Constituent Assembly, the Austrians, in Alsace, removed all the municipal officers and agents appointed by that Assembly, pursuing a system directly the reverse of ours at Toulon. While we were professing to support the constitution of 1789, General Wurmser had entered Alsace. What were his orders from the Emperor? Did he profess to support the constitution of 1789? No such thing; his orders were to abrogate every authority established under that constitution, and completely restore the old form of government. This, which was matter of fact and practice, proved that the views of the Emperor could not be the same with ours. Let it be also recollected, that when Dumourier, the most enterprising and the most active general that had lately appeared, proposed joining the Prince of Saxe Cobourg, he was declared a wise and virtuous citizen, resolved to give peace to his country, and to assist with his army in restoring, not the old despotic system, but the limited monarchy of 1789. Why was this proclamation issued by the Prince of Saxe Cobourg? Was it because he meant to adhere to it?—Nothing like it. As soon as Dumourier's defection was found to be, not the defection of an army, but of a general and a few followers, all his wisdom and virtue vanished with his power, and within four, or at most five days, the Prince of Saxe Cobourg, without waiting to see what effect his first proclamation would produce in France, with audacity and effrontery unparalleled in history, issued a second proclamation retracting every word of it. This Mr. Fox declared he stated to prove that there was as little

little sincerity in the professions of the Emperor, and they were as little to be depended on as those of the King of Prussia.

France, which he believed was composed of 16,000 square miles, and contained between 20 and 30 millions of inhabitants, he would venture to assert, had not, in all her periods of commotion and rebellion, produced any thing similar to this. He defied any Gentleman to name a parallel. The Prince of Cobourg did not assuredly issue his last proclamation without a thorough knowledge of the court for whom he acted; and as it was impossible in four days to remit his resolutions, or apply for directions, was it not a complete proof of the insincerity of Austria? Mr. Dumourier then came to England, where his desertion had inspired so much joy, and lighted up every countenance; but here he had scarcely arrived, before he received an order to quit the kingdom; and since his leaving Great Britain he had wandered from country to country, surely in a condition not to be envied by any of the generals in the French republic, unless those in confinement before the Revolutionary Tribunal, or under the immediate horrors of execution; and scarcely indeed to be envied by them, since his fortune was the severest of the two. What was the lesson thus held out to Frenchmen? That it was better to run the hazard of the guillotine in France, than to take the certainty of misery and contempt among the allies. Could this measure be called policy? If it could, it was most justly to be condemned, since it was of a piece with that flagrant incapacity, both civil and military, which had been manifest throughout the conduct of the war. Has the King of Prussia promised to restore to France the constitution adopted by her in 1789? Or if he has, has he done it in stronger terms than those he used in assuring the Poles of his approbation of their efforts after freedom? Has the Empress of Russia made similar professions? Or are we to look for her observance of them in her exemplary conduct towards the Poles? Is it in the mad and foolish manifestoes of the Duke of Brunswick that we are to find the good faith of Austria, and the conformity of her views with ours? By looking round upon all these circumstances, the only comfortable result was, that our faith, our conformity between our professions and our actions, appeared as a splendid exception to that system of insincerity and want of faith, which distinguished all the rest of the combination against the French nation.

Another topic demanded serious and close attention. In the prosecution of this war, we had talked of indemnity for the past, and security for the future, as our objects; although in

one of our numerous declarations, one of those points seemed to have been given up. However, although we should not insist on it, with regard to ourselves, at least we would be supposed to demand it for our allies; and yet with this object necessarily in view, we called upon Frenchmen to join us in assisting to expel their present rulers! Now let us suppose a well-disposed Frenchman, an enemy to the tyranny of the Jacobins, arguing the case with himself, he would naturally say, Foreign aid is in itself a dangerous remedy: However, as the evil is great, and not to be avoided, and there possibly may be no other mode of effectually curing it than by such aid, I will submit to it, if attainable, upon fair terms. If he were to ask what those terms were upon which we proposed to act, he would be told, security and indemnity. Security against the interference of France with her neighbours, might, perhaps, be effected, however difficult; but as to indemnity, there were still greater difficulties in the way. To this country, indeed, she might surrender some, if not the whole of her West India islands, and that, perhaps, might satisfy us. But was this all? No such thing; after we were satisfied on the point of indemnity, our allies would want an indemnity, and what would be enough for them? There was the Emperor, the King of Prussia, the King of Sardinia, the Empress of Russia, the King of Spain, the Queen of Portugal, the King of Naples, forcibly dragged into the confederacy. Except ourselves and Holland, not a state had joined the confederacy but those under the dominion of absolute monarchies. Holland, we all knew, had been drawn into the combination by influence equivalent to force, and would rejoice in an opportunity of getting out of it with safety. The case then being, that every one of the allies was to have his share, the very perilous event of the war would leave France in no worse situation; for they could at last only take and divide France amongst them. Great powers would require great indemnities; nor would they be content with the detail or an exact debtor and creditor account. If the Frenchman looked to Poland, he would see that nothing short of the partition of France would satisfy them; and could he be expected to risk his life by rising in opposition to the Convention, when the most flattering prospect of success presented to him was the ultimate ruin of his country? If France should be subdued, an event which he never considered as probable, the whole kingdom might not be sufficient to indemnify all the powers at war, and then we must have to fight for the division of the spoil, without even that delusive calm, which had been said to be all that could now be obtained by a peace with France.

It

It was certainly much easier to look back, and to detect the errors consequent upon the misconduct of weak and wicked ministers, than to look forward, and propose a remedy to them. Upon a supposition however that indemnity was granted, what would follow but a temporary repose? The seeds of another war would be sown, and devastation would soon ensue. Was there less to apprehend from Austria and Brandenburg than France? It was pretty well known that some of our allies were not very cordially disposed towards each other, and was not a general wish of the combined armies at Frankfort, and along the Rhine, to engage with each other lately manifested; and would not that wish have been carried into execution, but for mutual fear, and the apprehension of having to contend with superior power?

Most of the confederates being absolute monarchs, their views are consequently repugnant to the principles of a free state or a republic. The republic of Genoa, which, he hoped, would never be *compelled* to enter into the disgraceful confederacy, forced our admiration of its political prudence, in having so studiously avoided all interference. Switzerland, powerful in many points of view, and distinguished by the wisdom and learning of its inhabitants, declined taking any part against the independence of their neighbours.

Not having many correspondents abroad, and understanding nothing more than the daily conversation of the town, and the various newspapers, foreign and domestic, informed him of, Mr. Fox confessed himself incompetent to speak with precision on the subject; but he certainly understood that the King of Prussia had declared, not his unwillingness, but inability to carry on the war unless he received a subsidy of 700,000*l*. If the fact were so, he considered it as a fortunate circumstance, since it opened a door to us to extricate ourselves, and accomplish not a *separate*, but a *general*, peace, with the consent of all the allies. This was a desirable object, when all the calamities and distresses of the first campaign were duly weighed by the Right Hon. Gentleman opposite to him, who attempted always to prove the contrary, by crying up the successes of the early part of the last, chusing to pass over the disasters that preceded its termination.

Let the House however act more fairly and more wisely, and let Gentlemen recollect how auspiciously we commenced the campaign, and that it was invariably maintained that the enemy was reduced to one desperate effort. For that effort he would use an old-fashioned phrase, and call it *perseverance*; for by that effort did they retrieve their losses. While they stood against misfortune, defeat, dismay, and discomfiture, in

one campaign, and could recover themselves by one desperate effort, so as to instil intimidation, can the next, however brilliant in its commencement, be finally ensured to prove propitious?

Mr. Fox described the situation of France at the commencement of the war, and compared it with the present. He remarked upon the peculiar eloquence of the Right Hon. Gentleman opposite, and his happy art in painting pictures. What a field for Barrere, if he had possessed the powers of the Right Hon. Gentleman, to declaim in the Convention on that period when France was distracted with anarchy and rebellion; when La Vendée, and part of Brittany, were in a state of revolt; when Lyons withstood a desperate siege; when the whole of the South was ripe for commotion; when Toulon had surrendered to the English, and Marseilles was hourly expected to follow the example; when an invasion was threatened in Normandy, Valenciennes had been taken by the allies, and the Northern Powers were every day successful on the Rhine; and then to turn to the evacuation of Toulon by the English, the defeats in the North, &c. &c. what a subject for description, and all that glare of eloquence with which the vulgar are so easily and so generally dazzled! It suited the Right Hon. Gentleman, however, in that House, to give the reverse of these descriptions, and that with more skill than the facts which made up the subject would warrant.

In noticing the speech of Mr. Jenkinson, Mr. Fox said, that he was neither young nor bold enough to augur and limit the extent of the evils, nor was he sure of the recovery of Savoy. He knew what the Hon. Gentleman had been pleased to tell him, that Savoy was a proper ground of stipulation, though Savoy had not only not been considered as a ground of war, but not even of suspicion. He had been told too in former debates of the perfidious conduct of the French. He begged leave to state what had formerly been agitated upon the passive negligence of this country, when hostilities between the Sardinians and the French were first commenced. War with Sardinia was declared on the 16th of September; yet the Parliament was prorogued from time to time, and either the greatest indifference or the greatest carelessness prevailed. The battle of Jemappe happened between the order of the council and the affixing of the great seal to the prorogation, so that it was before it was announced in the Gazette. Mr. Fox recapitulated what he had done last year, with the aid and assistance of his few but Honourable Friends in Opposition;—first, with respect to the declaration of war, and last, to the continuance of it; and said, it was a matter of great consolation

to him, that, in spite of popular clamour, he had used every endeavour to prevent the war, and when it was unfortunately commenced, to render it as short as possible. He hoped that his friends would some day register with himself, upon the Journals, an account of what they had predicted, with the accomplishment of that prediction, and their unerring consistency in the same sentiments. He would say nothing of the calamities inseparable from war, although on every question they were perfectly in order. It was idle to say, that because they were general topics, and applicable to every war, they were fit matter of argument against none. The very circumstance of their generality rendered them matter of serious consideration before entering upon any war. It was impossible to devise productive taxes that would not fall ultimately upon the lower classes; and when such additional burdens had been imposed, it was impossible to call war a state of prosperity. Every new tax fell heavier than those which went before it. Thus, as the taxes in the American war were heavier than the seven years preceding war, because they came in addition, so the taxes of the present war were heavier than that with America, because they came in addition also. It behoved them to regard the distresses of the poorer classes of people, and endeavour to alleviate them. Conscious that the war rather increased them, however, than otherwise, he could not better discharge his duty than by resisting it in every shape, and therefore, believing that several of the allies were disposed to peace, he again thanked his Hon. Friend for bringing forward the motion, as it afforded him an opportunity of recording his opposition to a war which he had not ceased to deprecate from the beginning, and which he had seized every occasion of opposing as unjust in its principle, unsuccessful in its progress, and ruinous in its perseverance.

The Chancellor of the Exchequer said, that, from the manner in which the question had been introduced and argued, he considered it to lie in a very narrow compass; and therefore it was not his intention to detain the House for any length of time. One sort of language, and one sort of conduct, seemed to pervade every discussion that had taken place concerning the present war, which originated in the opinions held forth by those who were avowedly against it. The principles, however, founded upon those opinions, were completely contrary to the opinion of a great majority of the House, declared and testified on every occasion when there had been an opportunity of their expressing themselves on the subject, and likewise against the prevailing sentiment of the country at large. The principles and arguments maintained and insisted on by
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the Hon. Gentlemen on the other side went to establish, that the contest in which we were engaged was unjust, unnecessary, and ought to be put an end to immediately: Nay, they went even the length of asserting that an immediate end ought to be put to the war, whether the objects which induced us to enter into it were obtained or not; a doctrine which, after the repeated decisions of the House, the sanction of Parliament, and the country, as to the cause, the object, the conduct, and the result of the war, as far as it had gone, they never could agree to. He could not believe that there existed any such change of opinion as had been talked of. If it were true that we had entered into an unprovoked, unnecessary, and unfortunate war; if it were true that we had entered into a war in which this country had no sort of interest, and that we had engaged in a confederacy with despotic and absolute powers, merely to assist them in their ambitious views against the liberties of other nations, in which unwarrantable conduct we could eventually receive no benefit; then such arguments might be applied with propriety, ought to be listened to with attention, and to have their full operation and effect in that House.

If Gentlemen meant to say that we ought to make peace at the present juncture, he would wish the House to recollect, before they assented to that proposition, that the war had not been voluntary on our part, nor even an offensive war, but a just and necessary defensive war, the consequence of an aggression on the part of France, and therefore it was not in our power to make a peace. We were engaged in a war for the defence of our religion, our property, and our liberty, which were all endangered by the unprovoked attack of France. Fortunately for us, we were happy enough to find other Powers whose interests led them to join with us, waiting for our decision, and willing to make a common cause with us against the common invader of the rights of all mankind. When Gentlemen talked of the aggression of other Powers, against the liberties of France, they ought to recollect that French liberty turned out to be the most horrid of all tyrannies, every thing that was dangerous was to be apprehended from that system, nor ought it ever to be out of the recollection of the House in their deliberations about the war. The motion before the House had no other tendency than that of disuniting and separating those allies who had coalesced for the purpose of general defence. Were Gentlemen prepared to say, that it was impolitic in this country, situated as it was at the commencement of the war, to contract alliances with those Powers in Europe who were the most capable of assisting in endeavours

deavours to obtain the common object? Until they were able to prove that proposition, they could not expect that the House would agree in a measure which would inevitably deprive us of our allies, and leave us alone to contend against France. He did not approve of arguing generally against alliances, from certain passages in the history of some of the individual Powers with whom we were allied; and thought the whole tenor of those arguments, and the motion, was to hold out to those allies a want of confidence in them, and a public signal to the enemy, that we were not equal to the task we had undertaken; which he denied to be our real situation: Nor could he believe that the House or the Nation was so changed in opinion, as to relinquish, from any improper timidity, the only possible way left of preserving the principles, the security, and the independence of the British constitution, as well as the general tranquillity and happiness of Europe.

The Chancellor of the Exchequer observed, that much reliance had been placed upon particular parts of the conduct of our allies, which were, it was said, sufficient to prove that we ought not to coalesce with them. He did not think himself called upon to enter into a general defence of their conduct; but he wished to observe, that such parts of their conduct as seemed to excite the most censure, had no relation to the present war, and therefore could not properly be brought under their discussion upon this occasion. Even allowing that the conduct of the allies had, in particular instances, been such as not to be entirely reconcilable to the sentiments of the English people, yet surely those instances were not so flagrant as to prevent us from drawing all possible advantage from their assistance against the common enemy, upon an occasion of singular and unexampled emergency. This principle might be carried still further, and it might be contended that we should, upon no occasion, have recourse to allies, unless we could agree with them entirely in principle, in object, and in every one of their rules of conduct.

Although Gentlemen had argued so earnestly for the necessity of an immediate peace, had any one of them stated how it was to be obtained? It was said on the other side, "Only dissolve the confederacy you have entered into, and every obstacle to peace will vanish;" and this was, in fact, consistent with all their opinions, and, as he had before declared, the real meaning of the present motion; for it was merely, in other words, a motion for an immediate peace at any rate, and upon any terms; not by objecting to the origin, the conduct, or the success of the war, for on these points the House had come to repeated decisions; but they took other means;

means; and an attempt was made in hopes to intimidate the country, by stating, in a strong sense, the temporary calamities arising out of the unavoidable consequences of war, all of which distresses were dwelt upon in their order to alarm, rather than to convince, with a view to induce the House to a change of their former opinions. Let the House consider, whether adopting this mode of argument was the most likely to produce good effects? or whether it was not better to bear with fortitude and perseverance those difficulties that might arise in the pursuit of a cause which there was such an evident necessity of persisting in with the greatest vigour and exertion? If the motion of the Hon. Gentleman was adopted, it would, in fact, be throwing ourselves upon the mercy of France, and begging the Convention to grant us peace; a situation to which he hoped the spirit of this country would never condescend to stoop, nor its resources ever compel us to incline.

Upon different occasions, it had been asserted, not indeed by the Right Hon. Gentleman himself, but by others on that side of the House, that this was not a defensive war on the part of this country. Those who were of that opinion, and who of course thought that we were the aggressors in the war, might, according to those principles, agree to this motion: Those who thought that France was at present fighting for the cause of the general liberty of mankind, might also vote for the motion, and rely upon the *good faith*, the *moderation*, and the *honour* of France, to secure to us the permanent blessings of peace. But he hoped they would not bring over to their opinion those Gentlemen who, constituting a large majority of the House, had thought that we were compelled to enter into the war for the purpose of defending ourselves from the destructive effects of French principles, enforced by French means, by the bayonet and the guillotine, by injustice, oppression, fraud, famine, robbery, and murder.

Gentlemen on the other side had abandoned those reasonings which they formerly pressed respecting the origin of the war, and had now recourse to a new species of argument. They contended, that the misfortunes of the war had affected the trade of the country, and had induced the people in general to look with anxiety for peace, as the only means of restoring them their trade and commerce. That any war, and particularly such a war as the present, could not be carried on without in some degree injuring the commerce of the country, he admitted: But in the present war, the diminution was much less than could have been expected; and when Gentlemen called to mind what it was we were contending for, they would not think much of such a trifling and temporary depriv-

deprivation of commerce. It ought besides to be recollected, that, in proportion as the power of France, on their present system, was extended, the liberty and commerce of all European nations must be shaken and endangered, liberty and commerce, two blessings of which Great Britain of all others possessed by far the largest share.

The Chancellor of the Exchequer observed, that a great part of the speech of the Right Hon Gentleman had been spent in arguing the propriety of pressing all the common arguments against war, *viz.* of the distresses which it causes to the bulk of the people. However proper it might be, upon some occasions, to use those arguments, it could not be proper in a war of necessity, such as the present, as the only effect of it could be to induce the people to be uneasy under the necessary burdens of the war.

The Right Hon. Gentleman had asked with a degree of triumph, if the last could be counted one of the ten years of prosperity which this country was said to have enjoyed?

It was not, the Chancellor of the Exchequer said, either his meaning or his wish to conceal from the House the real state of the country: He therefore felt no hesitation in admitting, that, considered in a commercial point of view, the prosperity of the country last year had not been equal to that of former years; but the calamities of last year did not result from our having engaged in hostilities; the pressure arose from the continental war, which would have existed whether we had taken a part in the war, or not. All Europe felt the shock which the politics of France occasioned; the commerce of other countries, as well as this, was materially crippled; the temporary check of mercantile credit in this country was accidental, arising from various vicissitudes; but happily the misfortunes were, as he stated them to be, merely temporary; and the rapidity with which this country recovered (for it had ceased in a few months) the shock, was the strongest proof of its great resources, and justified our resolute exertions and perseverance in a contest on the successful event of which the prosperity and increase of those resources so essentially depended. Much as we lament the pressure of last year, the resources which it had discovered afford joyful hopes, that, if the cause is worth persevering in (which he had not the smallest reason to doubt), we have sufficient ability to carry us further. At any rate we ought not to relinquish the pursuit, though our hopes of succeeding were even less promising than they are at present. Our last efforts, as men, should be made before we desert our former resolution.

A new argument had been resorted to that day: It had been first contended, that, from the circumstances of the war, we could not expect ultimate success; and that, let the event be what it would, it had been asserted, that if we should be ultimately successful, we should afterwards have to fight with our allies for the spoils of France. This certainly was a very ingenious mode of reasoning: With regard to the first part of it, the spirit of this country, her resources, the efforts of our allies, and, above all, the situation of France, rendered that danger remote indeed, even if probable: And as to the second part of the argument, it was one which would apply to every war in which we were engaged with any allies, and therefore he should not enter into any more detailed reply to it. By way of proving that we had but little hopes of success in the war, it had been said, that the latter part of the campaign had not been so successful as the beginning: He did not mean to deny that the latter part of the campaign did not completely answer the sanguine expectation of those, who, elated by the astonishing successes which attended the allied arms early in the campaign, had not foreseen the probability of any check; but it should be recollected, that in the tide and current of the most triumphant war, sudden reverses of fortune could not be guarded against. Admitting, therefore, that at particular periods since the commencement of the war, our situation might have been comparatively better than it was at the end of the last campaign, yet, in order to form a true estimate of our present situation, we should call to mind the state of Europe at the time when Great Britain engaged in the war. The current of war had not ever been, and could never be, uniform; but comparing our situation at the beginning of it, with the present moment, he asserted it to be very encouraging, and agreed with the sentiments expressed in the King's Speech on this point, from a consideration of the positive circumstances—the fortresses gained, and the barriers passed by the Combined Powers, with our assistance. Let these points be considered, and, he was persuaded, there was no man in that House who would contend that the face of affairs had not undergone a very considerable change in our favour since that period.

Another mode of ascertaining on which side the advantage of the contest lay, would be, to examine which of the parties engaged had incurred the greatest expence. Look at France, with an expenditure beyond all calculation exceeding that of any power in Europe. We certainly had seen, and were now seeing, very great preparations in France, but we likewise saw that they are not made with ease, nor even the result of natural

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tural causes, prosperity, or internal wealth: In proof of this, he referred to their mode of raising, recruiting, and applying their military force, their revenue, their finance, and their expenditure; all of which was done by coercion and terror; and exhibited no resource, but extortion keeping pace with prodigality. Compare these circumstances with the facility with which the resources of this country are called into action, and compare their costs, in the present war, with those of our allies and ourselves, and any one must be led to think, that there was much more probability that France would sink under the pressure of the war, than the Combined Powers.

The Chancellor of the Exchequer took notice of the allusion that had been made, in the course of the debate, to an unfortunate Gentleman, *Monf. de la Fayette*. The Right Hon. Gentleman had said, that a report was circulated that *M. de la Fayette* was kept in confinement at the express desire of the allies. For others he could not answer, but he could positively assert, that no requisition to that effect had ever been made by the Court of London.

With regard to Poland, he participated in the concern of every Member in the House, respecting the hard fate that unfortunate country had experienced, and was as little inclined to approve and applaud the proceedings of the Empress of Russia or of the King of Prussia in that particular. He denied it was the intention of the Emperor, or the allies, to impose or revive the ancient despotism in France; and as for the argument of dividing France that had been urged, he would only say, that it made against all wars in which confederates were engaged. Nor did he see how it followed, that because the allies were not cordial, or attached to each other, we, who cemented the confederacy, should be the first to dissolve it; all arguments on the character of our allies he considered as wholly out of the question.

The Chancellor of the Exchequer, after more matter of animadversion and reply, said, he did not think it necessary for him to take up the time of the House any longer. Gentlemen had not forgotten that the war was a war of defence on our part; that the events of it were not discouraging; that the country was not in such a distressed situation as had been represented; and that, instead of being an object of censure, it might rather be considered a matter of congratulation, that we had been able to unite in our cause so many powerful States. He must therefore reprobate a motion, the tendency of which would be to shake and loosen that powerful confederacy which we had the best means as well as the greatest interest to cement, and by so doing to expose ourselves to the

renewal of those machinations which the war was undertaken to defeat.

Mr. Robinson spoke a few words, but in so low a tone, that it was impossible for him to be heard.

Mr. Whitbread rose to claim the usual privilege of a reply. He said the Right Hon. Gentleman opposite (*Mr. Pitt*) had represented the resources of France to be exhausted. This was not the case. So far from it, he was convinced, *Mr. Whitbread* said, that her resources were inexhaustible. The tyranny in France, so much reprobated on the other side of the House, he maintained, was the consequence of the combination formed by her oppressors, and by which she was at this moment on all sides threatened. He said, that the constitution of 1792 was an infant of fair birth; but if it was now misshapen and vile, it was totally owing to that confederacy, to which the Chancellor of the Exchequer was so much attached. His Right Hon. Opponent, he observed, had made use of one sweeping argument, that if we did not subdue the French, they would subvert our constitution; but he declined entering on those topics which had been stated in so able and masterly a manner by his Hon. Friend, and which every Gentleman present must allow stood unrefuted. The Right Hon. Gentleman had dwelt much on the boasted successes during the last campaign, and he seemed to console himself with the idea, that France could not continue those expenditures, which had rendered her so formidable since the commencement of the war; but he asked, was there any man foolish or weak enough to doubt her resources, when they contemplated the efforts which America was enabled to make, when fighting for her liberties, and against her oppressors? While France had

“Men and steel, the soldier and the sword,”

like America, she would prove invincible against her enemies. The efforts of disciplined armies, however numerous, he said, were impotent against enthusiasts in the cause of liberty, especially when those efforts are directed against what had been emphatically styled *an armed nation*. The Right Hon. Gentleman had been pressed closely, to answer the question put to him with respect to the King of Prussia; but he could not be brought to state, whether that Monarch had, or had not, a subsidy from this country, amounting to 700,000*l.* and whether he had not made a demand of a subsidy to that amount, to enable him to continue an active ally in the confederacy against the French republic. Having, however, said he would use every means in his power to cement the confederacy, when he

he had given France to be divided among them, they might discover that there were Jacobin principles in our constitution which required their interposition to exterminate. If Gentlemen would recall their reason, they must admit, that the King of Prussia sent troops into Poland, where many aver, that he first sowed those seeds of *Jacobinism*, agreeable to the fashionable phraseology of the day, in that country, which produced that temperate and happy form of government which had been annihilated by the Empress. With perfect consistency, therefore, he sent his armies to destroy that system of Jacobinism which had been stated at present to prevail in France. Jacobinism, he remarked, was the *alarm-word* of the day, and was used as in the times of religious feuds, when every man that did not subscribe to the sentiments of the ruling power, no matter what might be his system of faith, was branded with the name of *heretic*. Mr. Whitbread said, he was firmly persuaded, that nothing operated more towards the destruction of the liberties of the world, than the epithet Jacobinism being applied to every man who was a friend to a mild government, and an advocate for reform. His Hon. Friend who sat near him (Mr. Grey) had been denominated a Jacobin, because he proposed what the Chancellor of the Exchequer and his friends had first warmly recommended; and when societies were formed, strictly legal and constitutional, placards were actually placed against the walls of every public street in the city, declaring that they were the wicked institutions of *Fox* and his *banditti*. He entreated Gentlemen to resist and stand up against such cant terms being used; in time, it would have the effect of rendering even our own Government as tyrannical and odious as that of Prussia, or any other despotic Government, against which every good man must exclaim.

Mr. Martin declared it to be his sincere opinion, that every thing ought to be done in favour of M. de la Fayette; and he entreated, if his Majesty's ministers could by any means procure the release of the unfortunate Marquis, they would use their utmost endeavours to release him, if not, let them

“ To supper with what appetite they may.”

He did not, he said, agree with the Chancellor of the Exchequer in what he had stated with regard to the relief afforded last session to the commerce of the country, and lamented that the expences of the war did not fall more on the rich. To him it would be no very great misfortune, if he was obliged to dine upon one course instead of two or three. But it would be a more severe misfortune for persons in a lower sphere of life, that, while they beheld the luxury of their superiors, they
should

should be themselves distressed for a place to put their heads in; and, instead of bread and cheese, be reduced to a scanty allowance of a dry crust only.

Mr. Fox said, he had stated merely that the King of Prussia had called La Fayette the prisoner of the Combined Powers, not that he believed it to be true.

The House divided—

*Ayes** 26—*Noes* 138—*Majority* 112.

Adjourned.

HOUSE OF LORDS.

FRIDAY, *March 7.*

The Scotland Bank Bill, and five Road and Inclosure Bills, were brought from the Commons, and read a first time.

Lord Caernarvon presented a Petition against the Worcester Canal Bill, which was ordered to lie on the table.

HOUSE OF COMMONS.

FRIDAY, *March 7.*

Sir Henry Clinton was introduced, and took the usual oaths, &c.

The Chancellor of the Exchequer brought up the Bill for augmenting the Militia, which was read a first time, and ordered to be read a second time on Monday the 10th, and in the mean time to be printed.

The Bill for regulating the Penny-post passed the Committee, and the report was ordered to be received on Monday the 10th.

* Names of the Minority in the House of Commons on Mr. Whitbread's Motion, March 6, 1794.

The Rt. H. Charles J. Fox
Charles Grey, Esq.
Lord Robert Spencer
Lord William Russell
Hon. St. Andrew St. John
Colonel Tarleton
M. A. Taylor, Esq.
Henry Howard, Esq.
John Courtenay, Esq.
William Smith, Esq.
Robert Vynor, Esq.
James Martin, Esq.
Dudley North, Esq.

John Crewe, Esq.
William Hussey, Esq.
Sir Robert Clayton, Bart.
Benj. Vaughan, Esq.
Philip Francis, Esq.
Hon. Edward Bouverie
T. C. Crespiigny, Esq.
Lord John Townshend
William Plumer, Esq.
William Baker, Esq.
John Harcourt, Esq.
Hon. Major Maitland
Jos. Rand. Burch, Esq.

TELLERS.

R. B. Sheridan, Esq.

Sam. Whitbread, Esq.

In all 28.

Agreed

Agreed to go into a Committee of the whole House on Monday the 10th, to consider of the duty payable on Plate Glafs.

The Bill for repealing the duties on Paper, &c. and for imposing the new duties in lieu thereof, was read a second time, and ordered to be committed on Monday the 10th.

MILLERS' BILL.

The Order of the Day being moved for the House to resolve itself into a Committee on this Bill,

Mr. Smith objected to the Speaker's leaving the chair. He thought the Bill novel and deficient in principle, and declared he was determined to oppose it, and even in that stage to take the sense of the House upon it. It had already excited great alarm in the country, because it went to change the law in every hamlet and village where there was a mill. The Justices of the Peace, by the clauses of the Bill, would be empowered to assess the charges for grinding, and to exercise their discretion without any appeal, in matters which had uniformly been decided hitherto by a jury of the country.

Sir Francis Basset denied that the measure was unprecedented. An Act of Geo. II. gave similar power to Justices to regulate the price of bread. The baker was by that statute restrained in his profits, and the public found their advantage in the restriction: The millers, who had more opportunities of practising fraud in their business, were not restrained, nor had they any check upon them; the customs were so various, and the impositions so numerous, that it was impossible to obtain any accurate information on this head, but from those who had left off business. In some places the toll was one sixteenth part of the corn ground, in others less, and in some more: This imposition was tolerated only by prescription, and was the consequence and cause of continual disputes. *Sir Francis* enumerated the frauds and impositions practised by millers, and urged the necessity of eradicating those abuses. What he proposed was, that, instead of a toll in grain, a payment in money should be made; this regulation would be in favour of the millers, because it was at present optional in the people to pay either in money or in grain. When the grain was good they paid in money, when bad they paid in grain. The trouble in grinding was the same, whether the corn was good or bad. His reason for wishing to allow no appeal, was to accommodate the poor people, and to abridge the expence of obtaining justice, which he was convinced could be administered as substantially by a Justice of the Peace, as by any Court of Record. Convinced of the necessity of this Bill, *Sir Francis*

Francis declared, he felt it his duty to insist on its going into a Committee.

The Attorney General opposed the Bill, as having a tendency to trench on private property, to violate the law of the land, and to lodge in the discretion of Justices of the Peace a jurisdiction, which ought only to be decided by the verdict of a jury, under the direction of a Court of competent jurisdiction.

Mr. Hussey declared, that the present mode of collecting toll was inconvenient and unjust, as it frequently changed the sale of corn into that of flour; for a poor man, who was possessed of a small quantity of corn, would rather dispose of it in any other way than carry it to the miller. The consequence of this was, that he sold his corn, and went to the market for flour to his great loss, and to the great advantage of the monopolists. Of this he could speak from his own knowledge.

The Solicitor General thought the last objection might be obviated by a clause, obliging the miller to be provided with scales for weighing the corn both before and after grinding, making an allowance for waste, &c.

Sir Francis Basset said, if the Learned Gentleman had taken the pains to cast his eye over the Bill, he would have found, that it contained a clause to compel the miller to keep a scale and weights for the purpose of weighing the corn before and after it was ground, allowing for waste, so that he could not take an arbitrary toll. On the question being put, the House divided:

For the Commitment 59—Against it 39—Majority 20
Adjourned.

HOUSE OF LORDS.

MONDAY, *March 10.*

Counsel was farther heard on the Scotch Appeal, *Newnham and Co. v. Ruffel and Co.*

Several Canal Bills, and Petitions against some of them, were read.

LORD RADNOR'S PROTEST.

The Earl of Lauderdale said, he thought it necessary to make some observations on a Noble Lord (Auckland) having come down to the House, and caused to be expunged from their Minutes some part of *Lord Radnor's* Protest, without having given previous notice of his intention in that respect. His Lordship declared himself happy to find, that the Noble Lord had felt the necessity of not standing a single exception to the unanimous opinion of the House on the question then under

discussion; but it was the mode he had pursued which called for his animadversion. Had the House been regularly summoned, the Earl said, he would not only have argued that the landing of the Hessian troops was illegal, but would have denied what had been conceded in the Protest, that it was expedient. The Crown, he was ready at any time to contend, had neither the power by its prerogative to land or keep foreign troops in the kingdom, without the previous consent of Parliament. But if Noble Lords could make such motions without due notice, the most solemn decisions, and the minutes of that House, might be altered at pleasure. He contended, that it was unparliamentary, and contrary to the rules of the House, which some Noble Lords, on other occasions, were so ready to consider as sacred and unalterable.

Lord Auckland said, he would only offer a few words on the subject. He had doubts whether even those few words might not be thought more than the occasion called for. He was sorry that the Noble Earl happened not to have attended his duty in the House when the motion then objected to was brought forward. The House, however, had been most respectably attended; nothing had been done by surprise. The motion to expunge had been made with the consent of the Noble Peer who signed the Protest, and that consent had been given with great and becoming candour. His Lordship added, that if the Noble Earl meant to attribute to him any change of sentiment on the subject in question, he could only repeat, that not the least change had taken place. His opinions had not been lightly formed, and continued precisely the same as they had been delivered to the House.

Lord Sydney said, that the conduct of Lord Lauderdale was the most extraordinary he had ever witnessed; he found fault with the House for having done something in his absence, which it could not but have done when he was present. He was not in the habit of protesting against the opinion of the House, like some other Noble Lords; but did he wish the words of the Protest to remain as they originally stood? He supposed that the House must alter what it has done, in order to suit his Lordship's taste and opinion.

The Earl of Lauderdale, in reply, said, that he had only once introduced a motion in a full House, and that he was accused of taking it by surprise. He said, Lord Sydney had not lately been in the habit of entering Protests on their Journals, but he remembered the time when, in another place, he was as warm and zealous a Protester as any Lord in that House.

SLAVE TRADE.

The Order of the Day being read,

The Bishop of Rochester * rose to make the Motion respecting the future mode of proceeding with the examination of evidence relative to the Slave Trade, of which he had given previous notice. The Bishop said, that three sessions of Parliament had passed since the business respecting the Slave Trade had been brought before the House. The matter was certainly of great importance, and demanded every degree of solemnity, consistent with public justice; but he was obliged to say, that the delay and protraction that had ensued were ill calculated to obtain the end in view. In the year 1792, the question for the hearing of counsel, and the examination of witnesses, first came before the House, and it was determined that they should be examined at the bar of the House. He was then one of those who voted for their being so examined; and he did it in hopes that those Noble Lords who had not made up their minds on the business, might have a more early opportunity of being convinced of the impolicy, as well as of the inhumanity, of continuing so shocking a traffic. For his own part, he wanted no additional evidence to guide his mind, and enable him to form his own opinion on the subject, but other Noble Lords might be differently circumstanced. The experience of three sessions had produced very little progress. The witnesses that had already been examined, he believed he might venture to assert, without the dread of contradiction, bore no manner of proportion to those that are to be examined; and therefore, unless some mode could be adopted, for expediting the business, it would never be brought to a conclusion. When it was first brought before the House, it had been agreed that two days in every week should be dedicated to it; but even in the first session that agreement had been broken through, and in the succeeding session the business had been continually put off from time to time, and when brought forward, it was always after the patience of the House was exhausted in consequence of having attended to other business. In the last session, only six days had been allotted to it, and in the present, either from the additional weight of business occasioned by the war, or from some other cause, it had not been brought forward at all. It was certainly equally an object to those who were for a continuation of this traffic in human blood, as to those who thought an abolition of it both

* Dr. Samuel Horsley, lately translated from the See of St. David's to Rochester, on the death of Dr. Thomas.

a measure of policy and humanity, to have a speedy determination on it; but going on as the House had hitherto done, giving their attention to it only for an hour or two; instead of four or five, it did not seem probable that the evidence would be gone through, or the House be prepared to give an answer to the Commons on the business when the time arrived which they had fixed for the termination of this horrid traffic. The respect they owed to their own characters, to the Commons, to the Public, and to the parties who represented themselves, called for a more expeditious mode of proceeding; he was therefore of opinion, that if the further examination of witnesses, and hearing of Counsel, were referred to a Committee up stairs, it would considerably expedite the business; because the Committee could in that way meet at a much earlier hour, and dedicate much more time to it, than the House could possibly do. He therefore moved, "That the further hearing of counsel and evidence on the Slave Trade, with the evidence that has already been taken, be referred to a Committee above Stairs."

The Duke of Clarence resisted the motion. The Duke desired that the Resolution of May 8, 1792, for hearing counsel and evidence at the bar of the House, on the subject of the Slave Trade, might be read. It appeared by the entry on the Journals, that an amendment, to the same effect as the motion of the Rev. Prelate, had been then proposed, and negatived by a great majority, who decided that evidence and counsel should be heard at the bar. His Royal Highness next took notice of two Amendments that had been made to the original motion by a Noble Lord who was at the head of the commercial interests of this country, and another Noble Lord near him (Lord Mansfield). From these he argued the great attention of the House to the object when it first came before it, and how improper it would be at this time to make any alteration in the mode of conducting the business. He insisted, that the Right Rev. Prelate had himself originally voted for the present mode of proceeding. The resolution to examine evidence at the bar of the House was voted in a time of profound peace, and all the time that could be spared from other business, that occasionally claimed the attention of their Lordships, had been given to it. It was to be recollected, that this country was not at present in that state of profound peace which it was in at the time the Slave Trade was first agitated. We were now at war, and consequently the time and attention of the House must be more taken up, and with business of a nature more temporary and important. With regard to what had been stated by way of argument or animadversion, that

the Slave Trade not having been brought forward at all this session, it should be recollected, that it was a matter of delicacy to the Right Rev. Prelate, whose ill health had prevented him attending his duty in Parliament, the manner in which that Rev. Prelate had interested himself in this affair, having been thought a sufficient reason for delaying it; he could not therefore but express his surprise, that, on the very first day almost upon which the Right Rev. Prelate was able to attend the House, he should bring forward a motion of such a tendency. It ought never to be forgotten, his Royal Highness said, that the colonies could not be cultivated without slaves. Though a very young man, he was convinced that, in a country like Great Britain, the most strict attention should be paid to every branch of our commerce and our navigation. In this view the trade was of the highest importance; for the country was benefited 24,000,000*l.* a year by her West India trade; an immense number of seamen were employed in it, another matter of the first consideration and importance; and upwards of 70,000,000*l.* embarked in it by the merchants and other subjects of this kingdom. For these reasons, surely their Lordships would think that they ought to give the business their most serious and deliberate consideration. Besides, it was brought before them by the Commons of Great Britain. His Royal Highness said, that great attention was due to every thing which came from so respectable a body, but still their Lordships must judge for themselves; and he would never consent to subscribe to the opinion of others, while he had the means of forming a judgment for himself on the grounds of evidence. Under all these circumstances, he thought it incompatible with the dignity of the House to refer it to a private Committee; besides, it was bringing the business upon the House at a time when it would be the least convenient for their Lordships to attend a Committee; at a time when the assizes were holding; and it must be the wish of every Noble Lord to attend the assizes in his own county. His Highness assured the House, that his fellow-subjects abroad, as well as at home, looked up to their Lordships for a full and a solemn investigation of the business, by which alone their property and rights could be effectually secured to them. He concluded by giving the motion his decided negative.

The Bishop of Rochester declared, he was not apprized that the business had been postponed in consequence of his indisposition; he must nevertheless persist in asserting that their Lordships would both facilitate and accelerate the business by voting for his motion. He said, he was strengthened in this opinion by one of the arguments on which his Royal Highness had

had relied, *viz.* that a change of circumstances had taken place, and that we were engaged in war; the more business this alteration occasioned their Lordships, the more necessary was it to adopt a mode of examining evidence relative to the Slave Trade better suited to dispatch.

The Earl Mansfield said, as he had been particularly alluded to in the debate, he thought it necessary to observe, that the House had already granted the prayer of the Petitioners, and could not now alter its conduct with respect to the mode of proceeding in a subject so weighty and important. The Rev. Prelate must know, that in great and complicated questions there was no royal road to evidence any more than to geometry. and he would ask, Should matters of the smallest moment be heard at the bar of that House! and would their Lordships send an affair of such magnitude to a Committee above stairs? He thought that would not leave a very great impression on the public mind of the justice and honour of the House. He would not give his consent to the referring so important an object to a Committee. Besides, the examination already had at the bar, must, in that case, be also submitted to that Committee, and it was certainly impossible for them to judge of what they had not heard. His Lordship placed the motion in a variety of views, and argued very ably against it.

Lord Grenville said, that from his official situation, and the information he had received in another place, where he had been obliged to inquire in order to form his opinion and pronounce it, wanted no new evidence on the subject. The report of the Committee of the House of Commons, and the opinion and decision of the Council, left him no room for doubt on the occasion. The House of Commons had at first examined evidence at their bar; every diligence and exertion was made to continue the examination; but finding the great inconvenience of that mode of proceeding, had at length referred it to a Committee. His Lordship could see no difficulty, nor no inattention to their own dignity, in that House also leaving the business to a Committee, either to collect evidence, or to report upon it; for, as the proceedings were printed, a Committee could judge as well as their Lordships of the merits of the question, and might sit for several hours before the House proceeded on other business, and thus dispatch it without delay. His Lordship did not wish to anticipate the judgment of the House; but if, like the other, that House should be of opinion that the trade was contrary to humanity and policy, and a stigma on the national character, he had no doubt that it would not hesitate to say so, whatever might be the consequence to those concerned in it, and their Lordships must in

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that case deeply lament that they had adopted so tardy a mode of getting through the examination of witnesses, when they had it in their power to have pursued another mode, infinitely better calculated to produce expedition and dispatch. His Lordship concluded with giving the motion his approbation.

Lord Thurlow expressed his surprise that such a motion should have been brought forward at this time; for what would it be saying to the Gentlemen concerned? All parties seemed to agree that this was one of the most important subjects that was ever brought before that House; and yet it was proposed to refer it to a Committee, in the same manner as was done with the most trivial matter. The petitioners had the greatest property at stake that ever was embarked in any trade. Engaged in a trade countenanced by the executive Government, sanctioned by the Legislature, but which was now termed, by religion, horrid and infamous, the petitioners called upon their Lordships to decide whether they had embarked in it on fallacious assurances, or were entitled to the protection of the Legislature. Their decision, his Lordship said, ought most undoubtedly to be given on evidence examined in the fullest and most solemn manner; and he believed the records of Parliament afforded not a single precedent of a question of such infinite magnitude and importance being referred to a Committee above stairs. He had always been in the habit of conceiving, and he was much mistaken if the Journals did not warrant his conclusion, that whenever any matters of great national magnitude were brought under consideration, it was the uniform practice to give them the most solemn and serious attention, and which could only be done at the bar of that House: This their Lordships had also agreed to, in the present instance, for two sessions; and now it was proposed to alter the mode. What did that imply, unless that they did not now consider it of that importance, or that they were tired of it? an impression which he hoped would never be given by that House to the Public. The absurdity of the proposition also to him appeared apparent, for it recommended the further examination of witnesses, &c. Did it mean, by way of expediting, that they were to begin again, and go through all their Lordships had done? for, if otherwise, it would be two distinct parts, and he did not see how they could possibly be united. It had been said, that certain Noble Lords in office could not attend on account of other pressing public business, and that it ought to be referred to a Committee for the sake of dispatch. Was it more likely that those who could not attend on the business at the bar, would do so in a Committee? As to the word *dispatch*, he did not like it,

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it, when applied to an inquiry into the nature of a commerce in which such immense property had been engaged, as it was alledged by the petitioners, on the faith of Parliament. It was the bounden duty, as well as policy, of every wise and good Government, to shew all possible attention to the right of property, and to afford it the most ample protection and security. Upon these, and various other considerations, all arising from the principles he had stated, and the uniform practice of Parliament, his Lordship said he should oppose the Learned Prelate's motion; and also because he did not believe the adopting it would be attended with any degree of expedition whatever. Their Lordships were not only to examine evidence, but to hear the arguments of counsel, and from the whole to form their judgment. How could they judge on that which few of them in a Committee above stairs would ever hear?

Lord Grenville rose again, and said, the Committee, being open to every Noble Lord who chose to attend, was liable to none of these objections. When their Lordships came to decide on the general question, it would be seen what sanction the Legislature had given to the trade. If, indeed, it had given any, whether or not the property of the petitioners was to be destroyed by the decision. Till the proper time for debating these points, he should abstain from any argument on either.

Lord Thurlow spoke shortly in explanation.

The Bishop of London (Dr. Porteus) represented the small progress that had been made in the examination at the bar. Committees above stairs were generally more fully attended, than the House usually was on the days when the examination of witnesses on the Slave Trade took place. If any better mode than an open Committee could be suggested, he would agree to it; but as he had heard of none, he declared he must vote for the motion. He admitted that the immense property represented to be at stake, ought to weigh seriously in their Lordships' consideration; but on the other side, they were to consider fifteen millions of Africans as petitioners at their bar, 80,000 of whom were annually torn from their relations and their country, to be carried into captivity.—[The Duke of Clarence said the Right Reverend Prelate was going into the general question, instead of confining his observations to the particular question before the House.]—The Bishop of London said, his observations were not only strictly in point, but strictly in order, as he made them to shew the necessity of avoiding every possible delay, which was the question immediately before the House. He could not say that he had not formed an opinion upon the general question, but he was open
to

to conviction, if better information should prove that opinion to be erroneous. If their Lordships should ultimately decide that our West India islands could not be cultivated without the importation of negroes from Africa, he should acquiesce; but if they should think that the trade was as repugnant to policy as to humanity and religion, he should rejoice.

Lord Hay (Earl of Kinnoul) declared himself to be against any unnecessary delay, but still more against precipitate measures. When such a property was at stake, too great deliberation could not be used. He therefore gave his voice against the motion.

The Earl of Abingdon said, that the House being already fully in possession of his sentiments upon the subject at large, he rose, upon the present occasion, for the purpose only of *one* observation, and which was this; that this motion being for the *translation* of this business from the House *below* to a Committee *above* stairs, he was not at all surprised that such a proposition should come from a Right Reverend Prelate, who, as a philosopher (of the Brissotine school too, as the Right Rev. Prelate himself had professed), as a politician, a scholar, and a divine, must necessarily know and be best acquainted with the nature of *translations* of every kind; and therefore repeated, that he was not at all surprised at such a motion coming from such a quarter. But, said his Lordship, thinking as he did, that, instead of *translating* this business *up* stairs, it ought to be *translated* out of the House, or, in a cant phrase, perhaps better known to their Lordships, instead of kicking this business *up* stairs (as is sometimes said of the Lords Lieutenants of Ireland), it ought to be kicked *out* of doors, he should certainly give his decided negative to the motion.

The Earl of Guildford said, he had formed his opinion from a careful attention to the most masterly discussion in another place that any question had ever received. It was too evident that the examination of evidence at the bar of the House might extend to the period at which another branch of the Legislature had decided that the trade ought to cease, and then it would be a very awkward and embarrassing circumstance. At a time when their Lordships were convinced that the trade was inconsistent with policy and justice, they might be called upon to allow some thousands more of the unhappy victims of it to be carried away, that the system might not be abolished too abruptly.

The House divided on the Bishop of Rochester's motion:

Contents 14—Not Contents 42—Majority 28.

Adjourned.

HOUSE

HOUSE OF COMMONS.

MONDAY, *March 10.*

Presented Three Accounts of Lost and Disabled Troops; Mercers' Company Accounts; and Petitions against Waterman's Bill, from Barnstaple, for Swansea Canal.—Ordered to lie on the table.

The Committees on the Glass Duty, Bricks and Tiles, Penny Post, and the Jersey Post Bills, went through the same, and ordered them to be reported.

The Peak Forest Canal, Bergne's and Tolkien's Naturalization, and Pelton and Preston Inclosure Bills, were read a third time, and passed.

ALIEN BILL.

Mr. Thompson observed, that an intimation had some time ago been given by ministers, of their intention to bring forward an additional clause on the renewal of this Bill, with a view of rendering it more effectual, and to prevent any kind of evasion, like what they considered as having been practised in the recent case of Count Zenobio; whereas, he understood, it was their present intention to renew the Bill, without any alteration at all. He wished to hear a word of explanation on the subject.

Mr. Dundas acknowledged, that when that intimation was given, he fully intended to have brought forward an additional clause; but having further considered the subject, he was induced to decline that measure, deeming it quite unnecessary. Any attempt to evade the operation of the Act was clearly illegal, and would have no effect. He then moved for "leave to bring in a Bill for renewing the Alien Act;" which was granted.

CASES OF MESSRS. MUIR AND PALMER.

Mr. Adam rose at five o'clock, and began a speech of three hours and a half's continuance, with a very masterly and forcible appeal to the House on the importance, the interest, and the gravity of the question which he was about to bring before them. He rose, he said, to offer to the House a proposition on a subject which had already undergone much discussion:—To review the late proceedings and decision of the 31st of August last in the Supreme Court of Justiciary in Scotland, held at Perth, against Thomas Muir; and the trial of the Circular Court of Justiciary, which was also a supreme court, against the Rev. Thomas Fysche Palmer. From these supreme courts there lay no appeal, and therefore he conceived it became necessary for that House to enter into the

review. He felt great confidence, as well as great anxiety, upon the present occasion—confidence in the cause, which, from its gravity, importance, and interest, he was sure would engage them to indulge him with the most patient attention; and great anxiety at the idea of having to discuss in a popular assembly a question of such magnitude, and which would call for the exertions of much greater abilities than he could lay claim to, and which besides ought to be tried in a legal Court of Appeal. That resort was, it appeared, according to established judicial forms peculiar to the criminal law of Scotland, not to be obtained. On a former day, Mr. Adam said, he had complained of the misfortune that no appeal lay from the criminal courts of Scotland to a higher jurisdiction; and, to prevent that misfortune in future, had framed a Bill, which was, however, by the majority of the House, defeated. At that time he gave notice that he proposed to inquire if there were not an error in the law, or an illegality in the process, whereby Mr. Muir and Mr. Palmer were found guilty and convicted. He was therefore driven to the necessity of agitating it in that place, where, however, he had some comfort in seeing around him so many persons of great talents of every description—men of great legal abilities without legal practice, as well as men at the head of the profession. Opposite to him he beheld a Right Hon. Gentleman (Mr. Pitt), educated as a barrister in this country; and though, perhaps, not deeply learned in the abstruse and complicated systems of the laws of Scotland, but from his other eminent talents and his thorough knowledge of the judicial principles and constitution of England, fully qualified to decide upon a general comparison. Near him he saw, with equal comfort, another Right Hon. Gentleman (Mr. Dundas), whose former situation as Solicitor General of Scotland, and afterwards as Lord Advocate, added to his birth and education in that country, certainly rendered him perfectly conversant in the jurisprudence of it. Neither of these Gentlemen, Mr. Adam imagined, could come forward as opponents to the question, whatever objections they might have to an individual. The delay of this debate had also afforded another comfort, since by that means he should have an opportunity of hearing a Learned Gentleman (the Lord Advocate), *doctus utriusque juris*, who presided at the Court of Justiciary, and had so material a share in the proceedings in question. He could not but consider that Learned Gentleman's arrival as having very fortunately intervened, because he expected to hear from him a more clear and full explanation of the subject, than he could look for from any other quarter. He had great confidence, there-
fore,

fore, that the discussion of the question would be made in that House with the effect to be expected from men accustomed to form decisions on subjects of jurisprudence, and experienced in the clear and pure administration of the law of the land.

Mr. Adam said, he would enter into the discussion with all the coolness, temper, and gravity, which would be used in a court of law, as if he were arguing it on a writ of error, and pleading for a new trial. Although the House disliked professional arguments as much as he disliked to trouble the House with arguments of that nature, he must of necessity discuss the subject more in that manner than he otherwise would have wished to do. He was sensible of its importance, of its extent, and of its difficulty; but he would not attempt, as Lord Bacon said, "to use a number of words to find talk or discourse; to raise difficulties; to contradict and confute, but to weigh and consider" the case with candour and with gravity. He assured the House he did not bring forward the motion from any idle wish to raise doubts in the minds of the people, but in order to inquire into what appeared to him to be an abuse of a most alarming nature, and which, if it existed, should be corrected. He would endeavour to avoid all technical discussions, of which a great legal character had truly said, "That forms of law were the tenses of justice."—He would avoid as much as possible every thing that was merely technical, though it was obvious that the whole merits of the question (necessarily dry in its nature, and therefore in some sort unpleasing to the ears of men not professionally bred) must in a great measure depend on the forms and proceedings in the criminal courts and of the law of Scotland; and by these the legality or the illegality of the proceedings must be determined. His proposition was, that there should be laid before the House, certain parts of the records in these two trials; he said parts of the records, that he might the better point out the particulars to which he meant to draw their attention. These parts were, the indictment, the plea, the verdict, and the sentence.

There were some things, Mr. Adam said, besides those he had stated (which equally concerned both parties), that related to Mr. Muir more particularly, which he desired to have before the House, and these perhaps might not be parts of the record: They were the order of commitment of two witnesses, William Muir and John Russel, as well as the objection that was made to the jurors, which was over-ruled. Though these might not be found on the record, yet Gentlemen were aware that if it was thought right to bring such matter before

the House, the notes of the judges would be sufficient evidence. These were the subjects of his intended motions: But he did not mean to rest here; though this would be the question immediately before the House, he meant undoubtedly to go farther; he meant from these records to question the legality of the sentence, and upon that doubt, as no appeal could lie from this questionable conviction, he proposed to move for a most respectful Address to his Majesty, in favour of these unfortunate men. He assured the House that in pursuing this course, he would endeavour to render the terms of the Address he meant to move for, as respectful as possible. It was, he observed, the duty of every individual and of every body of men, who addressed the Throne with a petition for the exercise of the prerogative of mercy, to approach his Majesty with the most profound humility and respect, being conscious that it ought to be the care of all men to preserve that loyal obedience to Majesty, which, as Judge Blackstone well said, the constitution had ascertained to the King. He would use that eminent lawyer's own excellent words: It had been the care of their ancestors, "not to make the Monarch appear in any of the invidious parts of the constitution; but in those works in which the nation only see him engaged personally; works of legislature, magnificence, and mercy." By the course which he proposed to himself, he hoped he should maintain the truest reverence for the Throne; since he moved only for the exercise of his Majesty's most shining prerogative; and though he questioned the legality of the sentence, and the soundness of the discretion, yet his Address to the Throne should be perfectly consistent with decorum, and such as he had described. This was the nature of his intended proceeding, and in the discussion of the subject he should consider himself bound to maintain the following propositions:

First, That the crimes set forth in the indictments against Thomas Muir and Thomas F. Palmer, are what the law of Scotland calls *leasng-making*, that is, uttering words or publishing matter tending to breed discord between the King and his people. This is properly a misdemeanour in the nature of a public libel, tending to affect the state, or disturb the government; and these indictments charge no other crime whatever.

Second, That the punishment of transportation cannot, by the law of Scotland, be legally inflicted for the crime of *leasng-making*; the Act of Queen Anne, 1703, c. iv. having appropriated to that crime the punishment of fine, imprisonment, and banishment only, and that the annexing the pain of death to the return from such transportation, was an aggravation

gravation not warranted by law; the punishment of death being expressly taken away by that statute, and no statute having passed since that time, which varies or alters that law : And

Thirdly, That if the acts charged in the indictments do not constitute the crime of *leaving-making*, or public libel, the indictments charge no crime known to the law of Scotland : 1st, because there is no such crime known to the law of Scotland at common law, as real sedition constituting a distinct and separate offence ; 2d, because if there is such a crime, these indictments do not state it ; 3d, because, if there were such separate and distinct offence in Scotland at common law, it would be contrary to law to punish that offence by transportation, and not warranted by law to inflict the pain of death for returning from such transportation. These were the propositions which he thought it incumbent upon him to lay down and to maintain. At the same time he conceived, that if he made out the first, he made out his whole case, since that would comprehend the illegality.

An indictment in Scotland is laid in the form of a *sylogism* : Its *major* contains the *corpus delicti*, of which the *minor* states the facts, and the *conclusion* or *consequence* is, that the *major* should be proved by these facts. The indictment of Thomas Muir states in the *major*, that advising and exhorting persons to purchase and peruse seditious and wicked publications, and to distribute and circulate them, &c. &c. are crimes of a heinous nature ; and the facts stated in the *minor* are, that he did make speeches in certain societies and meetings, and did advise persons to buy and read Paine's Rights of Man, and did circulate the same. It appears then, that the *major* of this proposition hold out no other crime than that of *leaving-making* ; and all the facts stated in the *minor* proposition of his indictment, aggravated as they are by the terms of the *major*, go no further than the crime of *leaving-making*.

Mr. Adam said he held in his hand one of three trials of Thomas Muir, that had been printed in Edinburgh ; the one printed for William Creech he would refer to, because it was evidently written against the prisoner. If there should be any objections offered to the quotations which he should think it necessary to make from that pamphlet, he gave notice to the House that he held in his hand official copies of the record, with which he had been furnished from Scotland, and to which he should be ready to refer. He said, that by the best authorities on the law of Scotland, there was no such thing as the sort of sedition which the indictment here affected to hold out. The law of Scotland understood from all the facts mentioned

mentioned in this indictment no other crime than that of *leafing-making*. What *leafing-making* was is the next thing to be understood. Lord Chief Justice Clerk, in pronouncing sentence, decreed it for exciting discontent, for creating rebellion, and disseminating seditious publications. To excite discontent, or disseminate seditious publications, is only a libel, and may therefore be tried as *leafing-making*, and judged accordingly; but to create rebellion is treason, and treason does not require any arbitrary punishment, being *crimen per se*, and liable to be judged by the law provided in cases of treason. In treason, too, no man can be an accessory, but all are principals, and therefore that part of the sentence is contradictory. Sir George Mackenzie, who wrote towards the latter end of the last century, who was so closely connected with the Duke of Lauderdale, and the apologist for all his mal-administration, was an authority that the House would not be disposed to dispute, inasmuch as it would not be conceived that a writer of Sir George Mackenzie's character, connexions, and views, would give the most favourable interpretation of the law in favour of the liberty of the subject. What does he say on the subject? That a commotion of the people tending to disturb the Government was treason, but if a commotion was excited upon any private account, it was in Scotland called a convocation of the *lieges*. Sedition was never laid as a *crimen per se*, but as it was connected with other crimes of which it was an aggravation. The *seditio regni* was punishable as treason, and was always so laid in the indictment, and the relevancy of the crime to infer the punishment of treason was always first found by the court. Here then was an authority which came home directly to the matter in issue, in support of his assertion, that the crime charged upon Muir and Palmer was no other than that described by the Act of Queen Anne to be *leafing-making*. No convoking of the people without arms, and without an overt-act of rebellion, was treason, and they knew of no other sort of sedition in the whole history of the law of Scotland. To be present at meetings, says Sir George Mackenzie, was not relevant to infer the punishment of treason, even though the meetings might be of a tumultuous nature. There could be in short no real sedition without actual rebellion, and every thing short of this real sedition was by the Act of Queen Anne defined to be *leafing-making*, and restricted to an arbitrary punishment. Mr. Palmer's case, Mr. Adam observed, was different from that of Mr. Muir's, as Mr. Muir's rested on specialities, while Mr. Palmer's had not the smallest foundation for saying that he stood charged with real sedition. Transportation cannot

cannot apply to his offence; and if transportation cannot apply, then the indictment does not fall within the statute.

The punishment ordained by that law brought him to his second proposition: It was confined, as he had said, to three kinds, fine, imprisonment, and banishment; and banishment certainly did not mean transportation to a particular spot. A short history of the Act of Queen Anne would give them a master-key to unlock the mystery of all this proceeding, which he called questionable legality, and unfound discretion.—It was an act founded on the *Claim of Right*, which was the charter of the people of Scotland, and correspondent to the Bill of Rights in England, and therefore it ought to be construed liberally in favour of the people: It was a penal statute, and for that reason ought not to be interpreted strictly as to the letter of it. There was, he observed, a great advantage in knowing the history of an Act, as the means of expounding its intention; and it was a curious fact, that the Claim of Right, from which this law was derived, contained this important clause; that the “causing to pursue and forfeit persons, upon stretches of old and obsolete laws, upon frivolous and weak pretences, upon lame and defective probations, as particularly the late Earl of Argyle, are contrary to law.” If England could boast her Ruffel and her Sydney, Scotland also could boast her Argyle and her Salton. The Earl of Argyle was indicted for high-treason and *leasing-making*, on account of his conscientious explanation of his subscription to an unconscientious test. The history of his case was not unknown to Gentlemen: Hume says of it, “Argyle was much surprised, a few days after, to find that a warrant was issued for committing him to prison; that he was indicted for high-treason, leasing-making and perjury; and that from these innocent words an accusation was extracted, by which he was to forfeit honours, life, and fortune. It is needless to enter into particulars, where the iniquity is so apparent: Though the sword of justice was displayed, even her semblance was not put on, and the forms alone of law were preserved, in order to sanctify or rather aggravate the oppression.” The Earl of Argyle was accused and convicted of treason and leasing-making in 1681, but had the good fortune to escape. The horror excited by this case induced the people of Scotland to insert the memorable clause, which he had just read in the Claim of Right, and under this they thought themselves secure. Eleven or twelve years afterwards, however, in 1701, on the memorable occasion of the settlement at Darien, a number of prosecutions were begun on old and obsolete laws, which roused the Parliament, and they passed a statute, the Act of Queen Anne (stated in Arnot’s Criminal

Criminal Trials, p. 91.) immediately before that on *leasing-making*, confirming the claim of right in more precise terms, and declaring it to be treason to counteract any part of it. Mr. Fletcher of Salton, who had returned from banishment, helped to prepare it. [Mr. Adam read some Extracts from the Act.] Immediately after this memorable statute, was passed the statute declaring that public libel was merely *leasing-making*, and was subject only to one or other of the three punishments which he had already mentioned. How important to the true understanding of this statute was the short history he had stated? It clearly shewed the intention of the Scotch Parliament—which did not repeal the crime, but only changed the punishment; a person convicted of the crime was no longer to incur the pain of death, but the pain of fine, imprisonment, or banishment, and these punishments were intended to be mild, and to be favourable to the subject. This act remained in force to the present day: Nothing had happened since to alter, or to change the statute. The question was, Whether the word Banishment and the word Transportation were synonymous. In his mind nothing could be more distinct; though the same in substance, he apprehended them to be extremely different in the abstract: Though transportation might be construed banishment, the word Banishment could not be used for Transportation; and he hoped he should be able to shew the House, that through the whole series of the Scottish history, from the lowest case of mere precedent up to the highest instance of legislative act, there was nothing to countenance the idea that the word Banishment in this act could infer transportation. Let it be recollected that the act intended to mitigate the punishment, and if there was any doubt about the construction of the term, the Judges were bound, by sound discretion, to take it in the most lenient sense. To be banished from one's country,

“ Around the world abroad to roam,
Far from his native seat and pleasing home,”

has always been considered as a severe and heavy sentence; but to be transported beyond seas to a particular spot—to be imprisoned in a distant and desolate land—to be doomed to the most despotic discipline and servitude, was such an aggravation of the punishment as did demand the most explicit and clear authority for its justification. The distinction between banishment and transportation was clearly known in all countries: It was known to the Roman law; it is known to the English law; and, in Scotland, it was of necessity clearly and perfectly understood and acted upon. The distinction in the Roman

Roman law is the same as is understood by the terms of *relegatio*, and the *prohibitio et interdictio legis*; the one being perpetual, the other not. This has been also construed in the same manner in Scotland, where, in the sentence of criminals, it has been expressed *banishment to the West Indies*; and in others *simple banishment*; and of this there are variety of proofs. Banishment was inflicted, but not transportation. Why? Because banishment was practicable, but transportation was not. Every condemnation must suppose a competent jurisdiction. Scotland had no colonies peculiar to itself, to which it could transport; it had no jurisdiction abroad, and it therefore could not inflict that species of punishment. "With us," says Sir George Mackenzie, "no judge can confine a man whom he banisheth to any place without his jurisdiction, because he hath no jurisdiction over other countries, and so cannot make acts nor pronounce any sentences relative to them." This was not merely the opinion of the great law authorities of Scotland, it has also been formed by decisions of the court. There was, Mr. Adam said, a memorable case before a Scotch sheriff, wherein he pronounced the sentence of transportation. The case was appealed to the Court of Session, and the Right Hon. Gentleman opposite to him (Mr. Dundas), then Solicitor General of Scotland, argued against the appeal, and the present Solicitor General of Scotland for the Pannel. The result was, the court decided that the sheriff had not the power of punishing by transportation, as he had no power out of his own shire. They however approved of the conviction, and they banished the man forth of Scotland, with certification that on his return he should be punished with transportation; thus declaring their own sense of the difference between banishment and transportation. Nothing could be more glaring than this fact; for they thus, in the face of all the world, had decided the general distinction between the one and the other.—The whole series of the statutes of Scotland served to confirm this interpretation. Proof was also to be adduced from the statute laws of James the First of Scotland, down to 1609, in the reign of James the First of England; and by the same manner of expression were the same opinions to be formed from the act of Robert the Second of Scotland down to 1609 and 1670, whereby banishment was evidently clear expulsion, and the judges could not confine criminals to any particular spot without jurisdiction over a foreign country. The law of 1609, which punished libels with banishment, was the only law on the subject before the act of 1703; and as Scotland had no colonies until the settlement of Darien, it was clearly understood that it was simple

banishment only, and not transportation. In 1670 the Darien colony was one act where transportation began to be admitted. Some fanatics, who had been brought to punishment under the Duke of Lauderdale and Archbishop Sharp, were consigned there: Not but that transportation had been inflicted before for rebellion against the state in religious controversies. It was certainly true that there were many instances of transportation or of banishment to the West Indies, but they were all statutory; and they were all passed upon crimes that were capital. Wherever the words were added, and which were borrowed from England, they gave a severer meaning to the original Scotch term of banishment, and where they were not superadded, they were not to be implied. Transportation was first introduced by Charles II. as Bishop Burnet relates, when he states that the King wrote to Scotland, that neither death, transportation, nor other capital punishments, should be inflicted for *leasing-making* in future; and Sir George Mackenzie, Charles the II'd's apologist, endeavours to give a colourable pretext to the act entitled, "Against such as shall refuse to depone before the Privy Council against delinquents:" One clause condemns those who shall refuse or delay to depone, to be banished to his Majesty's plantations in the West Indies: But in the same act there is another clause, that no man's declaration shall infer against himself any other penalty than simple banishment.—Thus even the statute made a distinction between the two. As to all the acts of the infamous Privy Council of Scotland, which could only be paralleled in iniquity by the Star Chamber in England, it was impossible for him to say a word, as they could not be produced or referred to: They were hidden in the darkness with which oppression and iniquity always clothed themselves. But with respect to the sentence of the Court of Justiciary, he would take upon himself to say, that there was not a single instance of transportation passed upon any one offence that was not in itself a capital offence, and he would be bold to challenge any Learned Gentleman to prove that there was such an instance. He could not have looked with his own eyes, but he had been favoured with very accurate notes, and he gave the challenge to the Learned Gentlemen on the opposite side of the House, that in the whole of the Records of the Justiciary Court of Scotland they should produce a single instance: He trusted to the industry of Gentlemen of most accurate investigation, under directions the most precise.

There were three kinds of capital cases in Scotland upon which transportation had been inflicted; the first were capital punishments mitigated to transportation, and such were the capital

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capital crimes of murder, notorious adultery, rape, disturbing a man in his dwelling, &c. &c. these crimes, all capital by the law, were frequently mitigated to transportation by the discretion of the Judges. There was a long list of these crimes, which it was not necessary for him to repeat.

There was a second class of capital crimes where transportation was also used as a mitigation, and these were the cases in which, before the verdict was passed, the prosecutor agreed to restrict it to an arbitrary punishment. Gentlemen not acquainted with the Scotch law would understand that this was a very common practice in their trials.

There was a third class of capital crimes also, where the prosecutor and prisoner consented to transportation, and which compact was a species of mitigation or pardon. In all these cases the House would see that in all the three classes of capital crimes mitigated, capital crimes restricted to an arbitrary punishment, and capital punishments avoided by compact, transportation was passed only as a mitigation of a higher punishment. It constantly descended downwards; but could not be stated in any case to have ascended upwards.

In fact, there was not a single case in the whole history of the practice of the Courts of Justiciary, of the sentence of transportation being passed on any man whose crime did not infer a capital punishment. Now the act of 1703 having made *lesser-making* what we call a mere misdemeanour, and having declared that it should no longer be capital, it certainly was not competent for the court, in sound discretion, to pass a higher sentence than the law ordained. The act of 1609, which was a law for punishing scandalous libels against the people of England—an odd law if we were to judge by the manners of the present age, when abusing the Scots was more generally the practice—condemned the offence to banishment or more rigorous corporeal pain. Banishment there could only mean, banishment out of Scotland; for then Scotland had no jurisdiction abroad: And the act of 1703, being the next, took away all corporeal pain, and was professedly a mitigation of the act of 1609. But it would not have mitigated the act of 1609, if what was banishment in the first could be interpreted into transportation in the second. And that the direct contrary was the case, that the act of 1703 mitigated the former statutes, was manifest from the opinions of the greatest lawyers recently after the passing of that act. In 1715, and 1716, prosecutions were entered into against persons for distributing Jacobite medals among the Faculty of Advocates. Among others, Mr. Graham, Alexander Crawford, and another, were tried, one of them a person whose family had

since certainly shewn invariable loyalty to the family on the Throne. The indictments were laid upon the statutes, and Sir David Dalrymple, then Lord Advocate, stated in his information, that the laws against *leasing-making* were anciently odious, but, since the happy Revolution, that grievance, among many others, has been removed: What was useful in the acts of *leasing-making* is preserved by the act of 1703, *the bitterness of the punishment is restrained*, and so the odiousness of the law is taken off. The offenders only suffered imprisonment, and paid a fine of 50l. In the riot of Dundee, which happened on the accession of George I. some of the rioters were taken; yet they suffered no other punishment than fine and imprisonment, and the incapability of holding any public office. The next consideration was, to inquire, whether the laws passed since the Union would change the effect of this statute of 1703. The 4th of George I. specially excludes Scotland; the 6th of George III. recognised what was formerly the law of Scotland, but did not go an iota further than the 4th of George I. had gone. The general definition of crimes was different in the two countries.—There was no such thing as what we call misdemeanour; there was no such thing as sedition at common law. Sir George Mackenzie has observed, that their ancestors were too wise to admit of the *paritas rationis*, and of course there could be no analogy. In cases of mobbing and subornation of perjury, the misdemeanour, or leasing-making, is only punished with fine, imprisonment, and infamy. So that, as he had before stated, it was evident that all the sentences of transportation go solely upon capital offences. To the year 1737, in cases of return from banishment, the criminal incurred sentence of transportation; and the 6th Geo. III. being a mere Act of Police, cannot vary the Penal Code of Scotland. The 25th of Geo. III. the act made on the spur of a necessity, in consequence of the loss of America, certainly did not, either by its spirit or letter, change the body of the Scotch law; it ordained the transportation of felons, to such place as his Majesty in his council should think fit, but it did not ordain, that what before was a less punishment should from thenceforward be a greater. Surely Parliament would not say, that this statute, which merely went to enable the King to send persons to any place beyond seas, in consequence of our having lost America, could be construed to alter a statute to which it even does not allude: It must be consistent with itself, and as it neither affects to repeal or alter the former statutes, it goes only to declare, that where persons were subject to transportation, the King in council shall have the power to transport them where he pleases. To shew the very little ac-

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curacy that there was in this Act of Parliament, he stated that it contained the word "felon," a word not known to the Scotch law, and which the Scotch statutes had never mentioned. This Act certainly did not, either by its spirit or letter, change the body of the Scotch law. Between this Act too, and the 24th, there is some variation on the words of Banishment beyond the Seas; and Gentlemen ought in consequence to consider it in two points of view, if they suppose it to have any relation to the sentence of Mr. Muir: First, in the alteration of the law of Scotland; for thus he may return to England, as there is no Scotch jurisdiction in a foreign country without the legislative authority; and secondly, by banishment beyond the seas, refer to the statute of Queen Anne, and it would be found nearly to enforce expatriation. According to the Act of Parliament, if the Legislature interfere, it is felony to return to Great Britain or Ireland before the sentence of transportation be expired; whereas, according to the record, Ireland is omitted: And thus the criminal, who is not supposed to be conversant in the various Acts of Parliament, but to abide by the record, may escape to Ireland, and thereby incur the penalty of death upon the common plea, '*Ignoratio juris neminem excusat.*' But the aggravation of death could not be inflicted, unless the transportation had been adjudged for a capital crime; nor has transportation been ever decreed but in cases of capital crime. A Court of Justice cannot decree it unless the Legislature give the power. The Act of 1703 stood then the last and only one upon which the crime of *leaving-making* could be tried; and that crime of *leaving-making*, the crime of Muir and Palmer, was subject by that statute to fine, imprisonment, or banishment only.

He came now to his third proposition, that if the indictments did not charge the crime of *leaving-making*, they charged no other crime; for, as he had said, sedition was no crime at common law in Scotland. Mr. Adam declared, that he could not hear without horror, that a doctrine had been set up in justification of the proceedings in Scotland, that "as new manners made new crimes," the Court of Justiciary was supreme, and with review, without appeal, could make law applicable to the occasion. It was this sort of doctrine that had disgraced the Star-Chamber and the High Commission Court. If it was possible to conceive that any Court of Judicature in this country, that boasted of its freedom, and of the pure administration of criminal justice, could have such power, he could only say that it violated all his ideas of the constitution of this country, and was an outrageous libel upon common sense.

senſe. That ſuch a declaration had come from the ſeat of juſtice, he had heard, indeed, but he muſt diſbelieve; ſure he was that it demanded a very ſtrict and precise animadverſion. The old laws with reſpect to conventicles were clearly done away, and ſo perhaps were the burgh acts; and it was a queſtion, whether, when the Engliſh ſtatutes againſt treaſon were made to extend to Scotland, they did not abrogate the old laws of treaſon. It was manifeſt, he thought, that they abrogated the treaſon laws of Scotland, where thoſe treaſon laws varied from thoſe of England. It was treaſon in Scotland, for inſtance, for a perſon to kill another whom he had in truſt, as a ſchoolmaſter his pupil, or a guardian his ward; but though on the extension of the treaſon laws of England to Scotland, this ceaſed to be treaſon, it was ſtill a *crimen in ſe*, it was ſtill the crime of murder. It was the ſame thing, the ſame analogy would apply to the crime of ſedition; the Engliſh law could make that treaſon in Scotland which was not ſo in England.

But Mr. Muir and Mr. Palmer were not charged in the indictment with any other than that crime which in England is the miſdeemeanour of libel; and he believed there was hardly one man that heard him, that would deny that their puniſhment exceeded all the bounds of ſound diſcretion. There was a phraſe in the Scotch law which answered to what in Engliſh law was called acceſſary; the term was, *art and part*. But by the Scotch law the principal may be charged as *art and part*. The priſoner is obliged to deliver in the liſt of witneſſes that he intends to call to his juſtification a certain number of hours previous to his trial; and yet the proſecutor is entitled to prove *art and part* circumſtances, although thoſe circumſtances be not contained in the indictment; and, in that caſe, he is not permitted to call any new witneſſes to his defence againſt ſuch new charge. This might be conſiſtent with the practice of the Courts of Scotland, but no Gentleman ſurely who heard him ſtate it, would think that it was not contrary to all the principles of reaſon and juſtice. This ſingular proceſs was practiced in the caſe of Mr. Muir; it was proved that he had recommended “Flower on the Conſtitution of France,” and that he had uttered ſome expreſſions about reforming the abuſes in the Courts of Law and Juſticiary, although neither of theſe had been articulated in the indictment. Mr. Adam contended, that by *art and part* the indictment could merely mean *art and part* of the crimes libelled, and not of any other crimes; but the Lord Advocate ſaid, that under the terms of *art and part* he could prove the ſedition of the Pannel’s whole life, and draw

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draw into it every act of every kind. So he found had been the declaration on the trial. If so, he must aver that the man had not had a trial that ought to subject him to the dreadful punishment passed upon him in the sentence. It was said as an imputation upon the criminal law of England, that it was not necessary to name the precise day upon which a crime was committed, but the fact was, the law required that they should both name and prove a day. What, however, was the practice in Scotland? They were not obliged to confine themselves to a day; nay, after taking, in the case of Mr. Muir, the period of months, for his conduct during all which time he was to prepare and apply his defence, they extended their evidence to a period still more distant, and said, they had a right to take in his whole life, and he was denied the power of bringing evidence in his defence, because he had not previously given a list of witnesses to refute charges of which he had never heard. I assert then, said Mr. Adam, that substantial justice has not been done to this man; that there is ground for a new trial; and that the sentence of transportation to Botany Bay was illegal, arbitrary, and unwarrantable. If they, therefore, had either the feelings or the hearts of men, they would not depart the House that night without voting an Address to the Throne for mercy.

The next great objection to the fairness of the trial was that which related to the jury. A society was formed in Scotland, at Goldsmiths'-hall, resembling that at the Crown and Anchor, in consequence of the institution of certain societies called Friends of the People, of the publication of Paine's Rights of Man, &c. Of the Friends of the People, he should content himself with saying, that though many respected friends of his were advocates for a reform of the representation of the people in Parliament, he had no opinion common with them on the subject, he did not think that it was either a wise or a salutary measure to alter the representation in that House; and of Paine's Rights of Man he should only say, that he had been favoured with the reproach, in company with two Right' Hon. Gentlemen over the way, of having disapproved of his doctrines. This society at Goldsmiths'-hall had reprobated in severe terms Paine's book, and had excluded Mr. Muir from their society on account of his approving of that book. Gentlemen of this society were the jury, and an objection was made by Mr. Muir, a strong, a valid objection, that they were prejudiced men, had declared their prejudice, and had acted upon it. It was an objection common to the law of Scotland. There was a memorable instance in the trial
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of Lord Balmerino in the year 1631. He objected to Lord Marishal and Lord Dumfries, as having expressed themselves in his disfavour, and he put them to their oath—they took it. He made the same objection to Lord Blantyre, who refused to take the oath of his not having spoken in his disfavour, and he was rejected. With a precedent so strictly in point before him, they saw the Lord Justice Clerk repel the objection, on the ground that it would go so far as to exclude every man who has taken the oaths to Government. Good God! exclaimed Mr. Adam, what must be the feelings of mankind, on seeing so little regard paid to the decency of justice, and the fate of a fellow-creature! The very men who had declared Mr. Muir to be seditious, and who had acted so far against him as to exclude him a society, were yet held to be fair jurors!

The treatment in regard to the witnesses was equally adverse to all justice. John Russel, a witness for the defendant, was sentenced to three weeks imprisonment in the Tolbooth, because at the very commencement of his examination he had not been able to mention the names of the persons who had spoken to him on the subject of the trial. Mr. Adam pointed out the legal distinction between the credibility of a witness and his competency. The Court had no right to withhold the evidence of a witness who was competent on account of prevarication; they ought to send it to the jury, who are to judge of the credit that is due to it; but here they chose to deprive the prisoner of the evidence of his witness altogether. Mr. Adam said, he would beg leave to ask any of the Learned Gentlemen opposite, whether they would have sent a man to prison for prevarication, when the whole of his testimony was a mere matter of credibility? The whole affair was similar to the four deer. Another witness, William Muir, who from motives of conscience hesitated at taking an oath, was ordered to be imprisoned, perhaps, for ever! It was monstrous! It was impossible to speak of such an act without horror.

After having thus explained the circumstances of the trial, and after the House were apprised of the extraordinary proceedings on this trial, they were yet to consider the most material part of the whole transaction, the discretion of the Court in the sentence which they passed on the prisoner. He did not wish to impute any guilt to the learned Judges who exercised that discretion, though he thought it too severe and misused, and lamented that so great a power should be deposited in the hands of any individual. He said, he would endeavour to discuss the proposition with as much temper as he was master of, though he feared he might not always preserve that equanimity

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nity he wished to manifest. It was a subject that would warm and melt the coldest and the hardest heart. It was with the utmost reluctance, he declared, that he ventured to agitate the conduct of a court of justice in that assembly; he felt the delicacy and the difficulty of the subject very sufficiently; and he wished that the House had granted, what in his opinion ought yet to be done, the right of appeal, so as to bring the several questions forward in a different shape. He had avoided throwing any doubt on the subject of their conduct on any former day, because he thought it right that the question should be examined to the bottom, and that before a doubt was even hazarded, Gentlemen should be made acquainted with all the facts upon which it arose. Having examined the whole proceeding with the most anxious attention, he must declare in the most grave and solemn manner, that he did doubt and question the soundness of the discretion exercised by the Court, in the sentence which they had passed. What was the crime? Misdemeanour. What was the punishment? Transportation, and that a species of transportation the most aggravated and most afflicting known to the law. Let Gentlemen consider what would have been the punishment passed in this country, on a person convicted of a similar offence. What would have even been the punishment of Mr. Paine himself? He might certainly say, that it would have been no more than fine and imprisonment; for though the pillory had been ordered in several cases, it had not lately been executed in a single instance. Such would have been the punishment in England. But in Scotland they sentenced such convicts to the most shocking species of transportation. Transportation—not to America, not to a cultivated society, to an easy master, and to kind treatment, but to a desolate island, an inhospitable desert at the extremity of the earth, where every thing is in a rude and barbarous state, where they are deprived of all communication with intelligent beings like themselves, where they can find no social pleasure, not any comfortable improvement in letters; but are condemned to live with ruffians, whom the gibbet had spared, and under a system of despotism rendered necessary for the government of such a tribe! They have also to undergo the fatigues of a long voyage, in which, by the returns upon the table, many have perished, to an inhospitable country, where they are doomed to penury and want. He illustrated the horrors of such a punishment by a beautiful passage from the philosophical Gibbon, and said, that though punishment ought not to be different for different classes of men, yet as the object of punishment was the prevention of crimes, they surely ought to take care not to wound the feelings

of mankind by exerting the utmost grasp of discretion to more than it could reach, or more than it could hold. The mind of man, shuddering at a disproportionate sentence, could feel no respect for the administration of justice so strained, and the hand of authority was therefore weakened and palsied by the act. In the exercise of sound discretion it was natural to think that the Court would have looked for examples the most congenial to the feelings of the country. An article in the Union should have guided their discretion; the practice of England should have guided their discretion; unless it was meant that their authority was to be the stalking-horse for extending the same sort of severity to the practice of the criminal law of England. They should have remembered, that as the two countries were bound together by political and moral ties, that their allegiance was the same, their duties the same. They should have taken care that a punishment so outrageously different from that of the one country, should not have been suffered in the other. It was necessary to the safety of England that this should have been done. Even in the most violent case that England exhibited, that of Bishop Atterbury, our milder administration of justice thought only of an act of pains and penalties. Instead of this, the Court of Justiciary in Scotland had thought fit to have recourse to the despotism of the Romans, when the Romans had sunk under the tyranny of an individual. It was with horror that he saw them referring to the practice of the Roman law, under Nero and Domitian, instead of the mild practice of the neighbouring country. One of the Judges had quoted the doctrine from the Roman law, and he took it for granted that the Latin quotation was correct, as the writer of the pamphlet would hardly have known it. He said that by the Roman law, *Ætates seditionis et tumultus, populo concitato, pro qualitate dignitatis, aut in furcam tolluntur, aut bestiis obijciuntur, aut in insulam deportantur.*—"We have chosen," says the learned Judge, "the mildest of these punishments."

Having gone through the whole of the case, Mr. Adam made a short, but warm and elegant conclusion, on the motives that had induced him to bring forward the business. He said, that after having exhausted his own strength, as he feared he had exhausted the patience of the House, he must beg leave to state, that he had been induced to this discussion, not from motives of professional interest; he had no personal knowledge of the sufferers; not from personal prejudice to the Judges, for he respected their characters; not from his love of Paine's principles, for he had frankly declared his opinion respecting them; but because he considered the distribution of criminal justice

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justice as the best defence of public liberty : He did it to save the nation from the disgrace and mischief of individual oppression, and because he believed that the perversion of criminal jurisprudence was likely to be the forerunner of anarchy on the one side, or of despotism on the other. Feeling for the honour of the country, for the purity of criminal jurisprudence, for the safety of the British constitution, he had thought it fit to bring before the House a proceeding which had wounded and tortured the feelings of considerate men ; and he proposed to correct the dangerous tendency of this proceeding by the most respectful means ; it was a becoming privilege in the House to petition the Crown to exercise the most divine of its prerogatives, that of mercy, which "blesseth him that gives and him that takes," and by thus procuring seasonable redress, to quiet the minds of the people, and to preserve sacred and inviolate the beauty of that constitution which he hoped would descend unimpaired to the latest posterity. He concluded with moving, "That an humble Address be presented to his Majesty, to beg his Majesty would give directions that there be laid upon the table extracts from the book of a journal of the Supreme Court of Justiciary in Scotland of the trial of Thomas Muir, so far as related to the indictment, &c."

Mr. Fox seconded the motion.

The Lord Advocate of Scotland, in reply, said, this was as serious a subject as ever came before that House for its discussion, for it involved the consideration of the proceedings of a Court of Justice, not the legality of them only, but also the discretion of the exercise of their power ; supposing their proceedings to have been strictly legal, in the whole of which he must say, that not the Judges of the Court of Justiciary only were to blame, if blame was due on any part of the prosecution of these trials, but he must also bear his part of the censure, and must have his apology to make ; and if the Learned Gentleman who opened the debate found it necessary to claim the indulgence of the House while he entered on the various topics of this subject, he must in that respect follow his example. In the part that he had taken in these prosecutions, he declared that he had followed the strict and fair, and to his mind the only mode that was pointed out by the criminal law of Scotland. He should not enter upon the character of the Judges in the Court of Justiciary, further than to say, that they were men eminent in their characters for their professional knowledge and for private integrity, men who had made the study of the law of their country almost the only study of their lives, and in which they had acquired the highest reputation. But if, after the question had been fully,

fairly, and ably argued, on the part of the defendants, by one of the most able lawyers (the Dean of Faculty) in the country, they were wrong in their decisions upon the subject, they were, he was free to say, without excuse; for it had been argued before them over and over again, and they had persisted in the opinion which they had originally delivered. He admitted the truth, the justice, and the rectitude of the general principles of the Learned Gentleman whom he was about to answer, but differed almost totally from him in the application of those principles; and with respect to the exercise of the discretion of the Court, as well as the legality of their proceedings, he trusted the House would agree with him, if he succeeded in what he should lay down, that the whole conduct of the trials in question was worthy of the approbation of the House. He must be permitted to say, that the whole of the speech of the Learned Gentleman, as far as it respected the proceedings in question, was founded either on a complete misrepresentation, a total misconception, or an entire ignorance of the law of Scotland, and of the practice of the Scotch courts of law; and he trusted that the House would not permit a court of justice to be attacked in its character and dignity upon slight grounds. It was necessary for him to add, that whatever some persons might say about assimilating the laws of Scotland to the laws of England, he was sure that much mischief had arisen from the ignorance and clamour with which the proceedings of the courts of Scotland had been accused. These practices might, if not properly opposed, tend to bring the Judges, however high their character, and the law of Scotland, however wise and just in itself, into discredit with their countrymen; a circumstance so obviously pregnant with the most serious inconvenience, that he trusted that House would always discountenance any proceeding likely to produce so mischievous an effect.

The Learned Gentleman had misunderstood the nature of the law which was applied to the case of Messrs. Muir and Palmer; he had apprehended the law on leasing-making only had been applied to their case: That was not the fact. They were tried upon a charge distinct from leasing-making, which he would endeavour to explain to the House. If it were an error so to try them, the mistake was wholly to be imputed to the person that then had the honour of addressing himself to the Chair. When such daring, profligate, and abandoned proceedings had been entered upon, as those upon which Muir and Palmer had been convicted; when an attempt had been made to stir up discontent, to disseminate wicked, scandalous, and seditious doctrines, and to introduce anarchy and confusion,

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sion, it became his duty, for about seventeen or eighteen months together, to look particularly at the law of Scotland, and to investigate that part of it which had slept in peace for a century, and until very lately, no man thought it would have been necessary to call forth, in the manner in which it had been brought into exercise; nor would it, but for the acts of men who seemed to be endeavouring to see how far they could go with impunity. In this situation it became his duty, and the duty of those who acted with him, to look into all the old statutes upon these points, from the reign of Robert III. down to the Union, and even to the present time, and to examine every Act of Parliament in that period, that applied to the question to be determined by these trials. With this view they had traced the whole history of the country; and the act of 1503 was particularly an object of their consideration. The result was, that they were decidedly of opinion that the fact charged and proved against Mr. Muir was not such as came under the meaning of leasing-making, but was separate and distinct from that description of criminal offence, because simple. Leasing-making, properly and correctly defined, meant the crime of telling lies of the King, his Nobles, and so forth. But the offence of Mr. Muir was that of exciting persons to acts of sedition against the King and the constitution; he therefore found he could not indict him for leasing-making. If he had, and he had found that upon that subject he might have been liable to transportation, or any severer penalty than upon the charge of sedition, he wished to know the motive he could have for doing so; but he should make it as clear as the sun, that on a conviction of the charge of leasing-making, he would have been liable to have the punishment of transportation inflicted on him, as well as on conviction of that offence of which he was convicted; he therefore could have no view whatever in charging these men with the crime for which he indicted them, except that of acting according to the law of the country in which they committed the offence.

The Lord Advocate proceeded to examine the meaning of what he considered as the main point of the Learned Gentleman's argument, *viz.* the meaning of the word *banishment*, in which he differed from Mr. Adam in the definition. Far was he from thinking that it meant the slight act of sending away from one place, and to the exclusion of another, which was called the severe act, that of sending to a certain other place. He defined banishment by the law of Scotland to mean sending a convict wherever the court should think fit; and contended, that *transportation* was only the means of carrying banishment

nishment into effect. The terms of acts were not, he observed, to be considered as resting solely on the common terms expressed, but were to be taken in the legal sense; and further, not in the sense attributed to them by the English laws, but to be expounded by the spirit of the Scotch Judicature. Considering them in this light, the term Banishment was not to be understood in the sense which the Honourable Gentleman had endeavoured to impress the House with. It had been the uniform practice of the courts of law in Scotland, not to hold in contemplation the idea of partial banishment in exclusion of transportation, but the very first object of the act after it had passed, made transportation a punishment applicable to crimes which were not *capital*; and ever since the punishments under the heads charged in that act had been decidedly voluntary. This doctrine he maintained to be supported in the preamble of the Act of Parliament of 1503, so much relied upon by the Learned Gentleman. He maintained also that this principle was recognised by the different acts of 1600, 1604, 1661, and all the acts from that period down to the act of 1670; under the authority of which several persons had been sentenced to be transported to the West Indies, and other parts beyond the seas, for *leaving-making*. He would readily agree that penal statutes should be strictly adhered to in the letter, that no construction should take place as to spirit; but as to the case then under consideration, which did not relate to capital cases, it was widely different. In an act passed in the year 1670, chapter the 2d, relative to *leaving-making*, it was declared that the Court of Justiciary might send criminals beyond the seas, which plainly shewed that the meaning of the word Banishment was not confined to so narrow a compass. In acts also passed in 1700, chap. 3, and in 1661, chap. 34, the meaning of the word was incontrovertibly proved. In cases of clandestine marriage, it was enacted, that the person who should have performed the ceremony shall be banished forth the kingdom. The statute likewise of 1694, against fraudulent bankruptcies, used the word Banishment generally; and yet it was never doubted whether the Judges had exceeded their limits, in transporting those who came under the penalty of this statute. In 1663, in the reign of Charles II. when party ran high, and conventicles were objects of juridical investigation, those who were convicted were likewise banished forth the realm to the West Indies, and the smaller and more confined species of banishment was not applied. In 1636 the parties were frequently sent to the colonies. All these instances proved the spirit of the act to have been taken in an arbitrary light; and he should venture to say, that

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that no other construction could be put on the words of the statute ; and, to use the words of the Learned President of the Court of Justiciary, whose respectability and knowledge must give weight to whatever he advanced, "that he could not have inflicted a lesser punishment." What then could be plainer than that where some statutes, in using the term banishment, expressly stipulate that it shall be banishment to a particular place ; where others as expressly point out banishment to be, merely forth of the kingdom ; and where others again use the term generally without any stipulation ; the framers of those statutes intended in the latter to leave a discretionary power in the Judges, to inflict either the one or the other, as circumstances, and the degree of the crime, should dictate ? But the matter did not rest upon that argument ; there was another, by which it would appear to a demonstration, that no other construction could be put on the statute of 1703, than that which he now used ; that was, that the word Transportation was absolutely unknown to the law of Scotland till within these few years ; consequently whether they meant that the criminal should be merely compelled to depart the kingdom for a certain time, or that he should be restricted to be sent to any certain place, they equally used the one word Banishment. He drew a conclusion from these premises, that the Judges who presided at these trials could not have acted otherwise than they did, could not have inflicted on those defendants slighter punishments, and answer to their country for the duty they owed to it, to their King, and to God. This was the case upon trials for *leaving-making*, in instances too numerous to mention in the course of that debate. He could cite above fifty of them, some of a very old date indeed. He believed that above two centuries ago, when Shetland and the Orkneys belonged to the Crown of Denmark, persons were transported from Scotland thither, being at that time the only places to which transports from Scotland could be sent. Indeed by the regular practice of the courts of law in Scotland, these points were arbitrary, and in the discretion of the Judges ; and arbitrary power, in the sense in which the law of Scotland considered it, was a power to inflict what punishment the Judges should in their discretion think proper, short of death.

In the reigns of Charles the II^d and James the II^d, the enormities that had been practised in the Court of Privy Council occasioned its abolition, and gave rise to the creation of the Court of Justiciary. Although he concurred with the Hon. Gentleman with respect to the illegality of the mode of proceeding before the Revolution, yet since that period he would contend that the administration of justice had been most pure.

pure. Among many cases he alluded to, he mentioned one as peculiarly striking. It was the case of David Baile, who was tried, on a charge of leasing-making and of slander (for saying that the Duke of Hamilton, the Duke of Queensberry, and the Marquis of Annandale were supporters of the Pretender), on the 24th of February 1704. He was convicted of this charge—What was the sentence pronounced upon him? They declared him to be infamous: They banished him forth of Scotland for ever; ordered that he be transported to the West Indies, to be imprisoned till he was transported, and to be set upon the pillory from eleven to twelve o'clock in the forenoon on such a day as the Court should appoint. [A loud cry of *Hear! Hear!*] His Lordship said he was open to conviction, and he was sure the Judges of the Court of Justiciary were so likewise; but he wished to know whether any case could be stronger than that he had stated, or how it could be explained away; for the case came before the Court only eight months after the act of 1703, on which so much stress had been laid, and justly laid, for that was undoubtedly an important act. This was after the declaration of grievances, and the claim of rights, in the reign of Queen Anne. Would the Privy Council who pronounced this sentence, have dared to pronounce it, and to have banished this man for ever at such a time, if that had not been a legal act? On inquiry he found these Privy Counsellors were considered to be, at that time, the first men in Scotland; illustrious in character, eminent in situation, and distinguished for their general knowledge, and that five of them were Judges. At the head of that criminal court was his Majesty's Advocate (Sir James Stuart); and in that instance the Court of Justiciary had not only acted right, they had not only followed their predecessors, but they had proceeded in strict conformity to the law and justice of the country. But this was not all, for he maintained that even the learned and respectable character to whom the Learned Gentleman had alluded, and to whom mankind were so much indebted (Sir George Mackenzie), had defined sedition in his Treatise on the Laws of Scotland, and had warranted the conclusion of the Court of Justiciary and Circuit Courts on the present trials. That great lawyer had considered sedition as a common law offence; indeed sedition was a crime well known to the law of Scotland.

With regard to what passed at the trial of Mr. Muir, his Lordship said, he asked the Court to do nothing but what the Court was bound to do by the strict rules of the laws of the country. He endeavoured to bring in facts against the prisoner which were not stated in the indictment. How far he

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was right in doing so, was a question for the House to determine, always taking into their reflection, that it was not the law of England, but the law of Scotland, they were to be guided by. The Judges of the Court of Justiciary had decided that he was right; they were persons of illustrious character; they had been eminent at the bar for their professional knowledge, previous to their being called to the distinguished situation that they then filled; their administration of the law was fair, equitable, and just; but it was indisputable that they governed themselves by the law of Scotland, and not by the law of England, for of that they were ignorant; the law of England was what they never studied any more than himself, and as they knew nothing of it, they were silent upon it, it being an invariable rule with them not to meddle with what they did not understand.

The statement of the Learned Gentleman was certainly correct, as to the pleadings of the court of Scotland being in the form of a syllogism. They certainly had a major and a minor proposition; after the statement of which, a time was allowed, and in the course of that time the prisoner was to know in general what was to be alleged against him; but the Learned Gentleman misunderstood the law of Scotland entirely, if he thought that the Scotch lawyers were to plead as formally as they do in England. The practice of the law of Scotland was extremely different. This was what some English lawyers had called a shameful latitude; but such was the practice of the law of Scotland. It was enough by that law, if a charge was made out on general terms, and the time, by the common practice, in which the prosecutor insisted on any act of the defendant, was the period of three months, within the time of which the prisoner had notice. In either one or other of these days, the prosecutor must give evidence of seditious speeches or writings; but either of them would do upon a charge of sedition generally laid against such prisoner. The prosecutor was not bound to prove what he stated specifically; it was enough to prove that the nature of the charge generally was sufficient to entitle him to give evidence of speech, words, or letters. This doctrine applied to the case of the book called the "Flower of the Constitution," in the defendant's pocket. An objection was taken to this—he was ready to have argued the thing; but before the Court could give their judgment, he gave up the point *ex gratia*, because he thought it not worth while to dispute it.

As to the objection taken to the jurymen, it arose in this manner: The pannel objected to them, because they were members of the Goldsmiths' Hall association. Some of them

were so; they had united for the defence of the constitution. If that was to be allowed a disqualification, as valid an objection would have lain against the first characters in the country. They might as well say, they would not be tried by any friend to the constitution, or by any but those who thought as they did. This must be the case if this objection was allowed; for if we searched the whole country over, there would be found but two classes of persons—those who wished to support the constitution, and those who wished to destroy it, and to introduce all the confusion and the anarchy of France. There was no middling class to be found. It was, he said, particularly to be observed, and he was sorry for it, that one of the facts against the unfortunate man (Palmer) was his endeavour to stir up the people of this country to assist France.

The Lord Advocate once more asked, Was it likely that men, such as now composed the Court of Justiciary of Scotland, would, in the particular cases alluded to, stretch the cord of justice, and overstep the rule of law? There was an objection taken that was not founded in law, in sense, nor in decency; it was this: Whether an half-pay officer, that received the King's pay, was an improper person to sit as a juryman? The Court repelled the objection; but the Gentleman, through motives of delicacy, declined sitting upon the jury. What was the result of the whole? A jury, composed of men of honour, of justice, and of discretion, found the defendant *guilty*. Unless, therefore, it could be proved that traitors, and factious and seditious men, were the only proper persons to sit on juries, the jury by whom the defendant had been found guilty, could not by possibility be accused or impeached. With respect to the witness of the name of Ruffel, he had been committed by the Court for prevarication. At that distance of time, he could not, he said, pretend to charge his memory with the words of the warrant of commitment: If in what he should say he committed any error, he should be happy to be corrected. By the law of Scotland it was established, that the person accused is to give in a list of his witnesses to the prosecutor. When such witnesses are brought forward, it was established by uniform practice and known usage, that certain questions were to be put to them as to their competency. These questions were termed *Initialia Testimonie*, and were to be answered fully, fairly, and satisfactorily. They were the following: First, *Whether the person had received any fee or reward?* Second, *Whether he bore any malice or ill will?* And Third, *Has any body told you or instructed you what to say upon this occasion?*

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When the third question was put to the witness Ruffel, he hesitated. In consequence of this hesitation in the witness, the Lord Advocate said, he had thought it his duty to investigate the matter farther. Upon further examination, the witness confessed that he had been spoken to. When he was asked who the persons were who spoke to him, he replied, that he did not know them. Upon being questioned with respect to the particular time when he had held this conversation, he would give no satisfactory answer; but when the date of his citation was examined, it was found that it had been dated *four days* previous to his examination. On his being questioned to the point, whether he had held the conversation already alluded to since his citation, and on his answering in the affirmative, it was ruled that this circumstance was fatal to his admissibility. Upon these grounds the Lord Advocate said, he had held it his duty to state it to the Court that Ruffel could not be considered as an admissible witness. When persons talked together previous to any trial, the chance was, that they *framed a story*. There was one circumstance that he should observe farther upon. It had been stated, that if evidence had been improperly rejected, it was a ground for a new trial. What was the case here? The defendant Muir had brought forward Ruffel to prove what had been abundantly proved before. He maintained, therefore, that the pannel lost nothing for want of the testimony of this witness. for that he only came to prove what twelve other witnesses had sworn on the part of the defendant, *viz.* that he frequently desired the populace to behave peaceably, and so on: These witnesses he had no doubt had had a conference at Glasgow upon this subject; and that was the reason they agreed so well on this part of the story.

As to the soundness or the discretion of the Court of Justiciary, the sentence of transportation, and the excessive rigour of it, he felt himself bound to defend it under all the circumstances with which it was attended. Upon this subject he entered much at length, and observed that he had heard much of the superiority of the law of England over the law of Scotland; but for his part, he thought that in this particular case the law of Scotland was superior to the law of England, and much better adapted to suppress sedition. When he referred that House to the case of 1704, he would ask, Whether the conduct of the Court of Justiciary of Scotland could fairly be called in question? At that period the Court decided upon the pure case of *leasing-making* in precisely the same manner that they had decided upon the present cases of sedition, which were by far more enormous. He maintained also, that trans-

portation was the most prudent disposal that could be made of persons who had been guilty of such atrocious offences, that the persons convicted, if they had been fined, would have had their fines paid by others—and as to imprisonment, they would have borne it with triumph; he had seen what a den of sedition imprisonment had been made, by persons who took advantage of every opportunity to laugh at, and insult, the government of the country. Of what avail would banishment have been? If Messrs. Muir and Palmer had been banished to this country, such persons as Margarot, Skirving, and Gerald, would immediately have been sent into Scotland to sow the same pernicious doctrines.

Mr. Thompson called the Lord Advocate to order, for alluding in the manner he had done to Mr. Gerald: That gentleman was now on his trial, and it was an indecent anticipation of his sentence. The Learned Lord, Mr. Thompson said, spoke more in the character of a Lord Advocate of Scotland than of a Member of the British Parliament.

The Lord Advocate proceeded to defend the conduct of the Scotch Judges, and concluded with contending, that, from the acts and cases that had been cited, it would be impossible for that House to say that the Court of Justiciary of Scotland had not, in the mode of procedure that they had adopted, conducted themselves in strict conformity to uniform usage, to invariable practice, and to the strict letter of the law.

Mr. Sheridan declared, that however disinclined he might have been to offer himself to the attention of the House upon a question, wherein he might be supposed to know so little, yet he never in his life felt it so impossible to sit quiet as he then did, having heard the arguments that had fallen from the Learned Gentleman. For if what had been advanced by him were true, the question would no longer be, what is the law, but whether they were bound not to lose a moment of time in putting an end to its further continuance? The Learned Gentleman had insinuated, at the opening of his speech, that it was impossible for any one to be capable of judging rightly on the question, without the aid of great legal information; but he begged leave to say, that it was owing to his Hon. Friend's happy combination of knowledge, unfettered by the shackles of mere legal disquisition, which had so eminently enabled him to unite the most constitutional ideas with his valuable habit of professional accuracy.

Mr. Sheridan took notice of all the arguments of the Lord Advocate, and maintained that there was a fallacy in the whole tenor of his speech, as the Learned Gentleman had confounded two things essentially distinct, the crime of *leaving-making*,

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making, and the crime of *sedition*. All the cases he had brought forward applied to *leasing-making* only; and the question did not involve that consideration, but related merely to sedition, upon which not a single case was to be found. He ridiculed the assertion of lawyers from Scotland, telling the House they were not qualified to judge on a point of common sense, because they were not Scotch lawyers. The question here was a question of common sense, arising out of the history of the country. He reprobated in the most severe manner the observation of the Lord Advocate, that there was no middle class of people in Scotland, between those who wished to destroy the constitution and introduce the horrors of anarchy, and those who applauded the proceedings of the Court of Justiciary. The assertion he hoped and believed to be as false, with regard to the people of Scotland, as he knew it to be false in application to the great body of the people of England; he knew that in England there was a class between republicans and levellers, and associators and alarmists, and much more honourable in their views than either, men upon whom this kingdom might depend for its protection and security, and to whom every honest man might look up with confidence—men who had too much spirit to crouch to power, and too much candour and integrity to stoop to mean artifice, to gain the momentary applause of the unthinking part of the community: In a word, men who would defend the constitution with unabated ability and undaunted courage. He expressed his indignation at the idea of the Noble Lord preferring the criminal law of Scotland to that of England, and said that such assertions should never be suffered to pass unrebated, lest contempt might be construed into acquiescence, and there might be found a minister bold enough to make the experiment of changing the criminal law of England for that of Scotland. Having given such a character of his countrymen in Scotland, the Lord Advocate had confessed his ignorance of the law of England; but had expressed a wish that the House would believe him to be learned in the law of Scotland. If his statements of that law were correct, he had indeed presented a picture calculated to alarm and to frighten every man in that House and in the country. Would the Learned Lord, he would ask, or any other person, dare to attempt the introduction of a Bill for transporting persons convicted of libels in England to Botany Bay? He took notice of the conduct of the Court, with regard to the witness Russell, offered on the part of Mr. Muir, and maintained that both the Lord Advocate and the Court had acted illegally upon that subject; that their conduct would not have been agreeable

agreeable to any principle of law, recognised in any civilized society, for that Ruffel the witness had said only, that he did not recollect what no person in Court could prove to be false. Mr. Sheridan applied many pointed observations on the refusal of the Court of Justiciary to allow the objection of Mr. Muir to the jury, as having prejudged his cause in the association of the Goldsmiths' Hall Company. This, he said, confounded two things essentially at variance with one another in the administration of justice in every court where justice was known or pretended to be administered—that of the accuser being a judge; which was the case on the trial of Mr. Muir. An attempt had been made to put the question on the footing of wishing to throw a stigma on the Scotch judges. What, he would ask, was the cause of the confidence of the people in the judges? Was it their characters? No. It was the controlling power which the House had over those judges, and which was the best security for their due administration of justice. He ridiculed the effect of the researches of the Lord Advocate, who had studied the law of Scotland for eighteen months, and had only brought forward a law which had slept for a century, which, when he produced it, turned out to be only a law upon *leafing-making*, whereas the subject to which he applied it, was sedition. He observed that it was somewhat remarkable, that the Noble and Learned Lord could not have found in the history of Scotland any law for sedition, in the course of a century. This was so curious a circumstance, that if persons were present who never heard of the recent proceedings in Scotland, they would say, What new crimes have these men committed, that it is necessary to go back one hundred years for a punishment for them? They would think that Scotland had been the golden age for the last century; that no treasons and no insurrections had taken place within that period, when, in fact, there had been not only sedition and insurrections, but two rebellions. It was extraordinary, he said, that the Noble Lord should never by accident have stumbled on the case of Mr. Dundas (he believed) of *Arncliffe*, who was accused of distributing medals, which a wicked woman, called the Duchess of Gordon, had given to him: On these medals were the head of the Pretender, and something very seditious on the other side—and of making speeches recommending the protecting the Pretender. It was extraordinary that this circumstance had escaped the historical vigilance of the Learned Lord. He took notice also of the charge against Mr. Muir for distributing books, the works of others, and of the necessity there was of transporting him for fourteen years for it, as a thing perfectly

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fectly new, in that the Learned Lord had never heard of such a crime as of calling on the people to ask for a Parliamentary Reform. Perhaps the Learned Lord had never heard of such a proceeding as a resolution, stating, "That since the *general* sense of the people could not be procured at a sufficiently early period to petition Parliament that session, resolved unanimously, That an application be made to them as soon as possible, at convenient times and meetings, to insure a speedy determination of the grand object—a *Parliamentary Reform*." This spirited resolution was dated the Thatched House Tavern, and voted there in 1781, signed by William Pitt, the Duke of Richmond, and others, calling on the people to do the very same thing.

Perhaps the Learned Lord had not known any thing of the late publications of Mr. Burke against popular rights, which however agreed pretty well with the speeches of the Learned Lord at these trials; for every sentence and almost every word seemed to have been borrowed from that admired performance. But the Public would see through all this; they would see that there was something so implacable, so rancorous in the character of an apostate, that he can never forgive others for adopting what he has found it convenient to abandon: Hence all the persecutions against all those who dare to follow the plan of a Parliamentary Reform. Having pointedly observed on the apostacy of those who had formerly been friends to a Parliamentary Reform, he charged the Lord Advocate, in his speech on the trials, with having never taken notice of any exculpatory evidence adduced by the unfortunate prisoners.

With regard to the distinction between banishment and transportation, according to his ideas of the subject, Mr. Sheridan considered it in a very different point of view from that in which it had been advanced by the Lord Advocate; notwithstanding whose particular reference to the statute 1686, Mr. Sheridan insisted, that the two words were not of a synonymous meaning. But the Learned Lord, in the unbounded triumph of his speech, had come at last to what he thought "a clinching argument" against those who appeared friendly to the motion. He had endeavoured to silence them by the *memorable* case of Bailey, in the year 1704, several months after the law which had that evening been so often mentioned was passed. This instance his Lordship, in the heat and hey-day of his declamation, considered as the *climax* of his legal authority, which was to silence and confound all his opponents. It was, however, very unfortunate for the Lord Advocate of Scotland, that of all cases which could be resorted to for the maintenance of an argument, that of Bailey was, without exception,

exception, the very worst and most odious. And why compare the abominable proceedings of the Privy Council to those of the Court of Justiciary? There never was a more foul or more infamous act than what had now been produced in vindication of his Lordship and the Judges, the case of Bailey being a proof of the Privy Council having stretched and exceeded their power to a shameful degree.

When the two cases were surveyed, could the House for one moment deliberate which was the most flagrant, or the most dangerous to the general interests of society? That in which the Duke of Hamilton had been calumniated, or that in which the rights and liberties of mankind at large had been materially injured? It was answered as a consolatory expedient, that the *moderation* and *forbearance* of the judges deserved the highest panegyric, because of all the evils in their option, they had chosen the least. They were at liberty to exercise banishment or transportation, with all its bitter aggravations of fortune; but here, again, they exceeded the limits of their authority; they not only sentenced Bailey to transportation, but ordered him the *pillory* as a preliminary, and inflicted upon him the epithet *infamous*, as a testimony of their Christian charity and benevolence. For such an undue exercise of power, these men ought to be execrated rather than held up to admiration; for in this instance there was a total departure from the letter of the law, and from all sense of justice.

The question, however, ought to be more strictly attended to. It was not a discussion concerning the merits or demerits of the Scotch Privy Council in the year 1704, but whether in the cases of Muir and Palmer there appeared sufficient grounds to order an examination into the conduct of the Court of Justiciary, or whether or not the whole proceedings ought to be revised, and, if necessary, amended? He hoped that Gentlemen would deeply impress on their minds the serious consequences of these legal decisions, before they gave the vote for which they were that night summoned. He lamented the modern Scotch explanation of the word *sedition*; believed that Muir and Palmer had been dealt with in an unconstitutional manner; and thought that a check or control ought to be given to the arbitrary conduct of the Scotch judges.

Much idle declamation had been made respecting the common law of the two countries. He was convinced that the common law of England was founded on the broad principles of common sense. He wished that the spirit of the criminal law was the same in both countries; and that the Scotch judges would divest themselves of extravagant partiality, and

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vince some respect to the common law of England, and to the common sense of every country. Mr. Sheridan said, he could not believe that the criminal law of Scotland was what the Learned Lord had represented it to be; but if it were, he flattered himself that all good men would agree with him in thinking that it ought to undergo an immediate alteration, and be rendered consonant to the true principles of freedom, humanity, and justice. He maintained that the Lord Advocate had misconstrued the whole of the opinion of Sir George Mackenzie on the subject of sedition; and denied that the opinion of Sir George Mackenzie, as quoted by the Learned Lord, tended to corroborate what the Learned Lord had advanced on the occasion. After commenting much at large on the various definitions of high-treason, leasing-making, and sedition, he maintained, as an indisputable fact, that the cause of the prosecutions against Muir and Palmer was neither more nor less than because they appeared to be disaffected to the King and Government. Could Gentlemen for a moment imagine, that these two unfortunate men ought to be expelled from society, merely because they adopted political principles diametrically opposite to those who were in power? Was the loan of Flower's book, or any other of a similar tendency, a sufficient reason for transporting Mr. Muir to Botany Bay?

"By the adoption of this new and infamous mode of prosecution (said Mr. Sheridan), you call up a man to answer for his *supposed* crimes; you investigate his whole life in the most scrupulous and illiberal manner; you canvass every transaction, and misconstrue every circumstance; and then you try him upon the most fallacious grounds that were ever made the grounds of criminal prosecution in a Court of Justice. Good God! Sir, is it possible that this can be the law of Scotland? If it be, it ought not to continue one hour longer; and although the Lord Advocate has insinuated that he thinks the same system ought to be introduced into England, yet, Sir, I am not afraid that Englishmen would at any time suffer such a violation of the spirit of our salutary laws."

He warned the House against the public danger of laying down a precedent which would go to the length of telling the people of this kingdom that the House of Commons will never institute an inquiry into the conduct of justice upon any thing short of illegality. After commenting upon the other parts of what had fallen from the Lord Advocate, Mr. Sheridan stated, that there was one circumstance, which, though not immediately connected with the subject matter of debate, he could not avoid stating to the House. An Hon. and worthy Member (Mr. Whitbread, sen.) had, upon a former

night, stated, with motives that no doubt did honour to his feelings, an insinuation respecting the sanity of the faculties of Mr. Palmer. That unfortunate gentleman, then on board the vessel which was to convey him to Botany Bay, had, in a letter which he held in his hand, declared, that not all the severities of his unmerited fate had touched him so sensibly as this imputation; and he earnestly desired that it might be understood, that, in the petition which he had offered to that House and to the foot of the Throne, he had demanded justice, not implored mercy. The mistake had probably arisen from the circumstance of there being a brother of this gentleman who laboured under the misfortune, mistakenly, and no doubt kindly, attributed to him.

Having finished this subject, Mr. Sheridan besought the House to attend to the decision that night, and not to make so dreadful a precedent as the establishment of the sentence by withholding the Record must do, and which went a great way to introduce the diabolical law complained of into this country.

Mr. Whitbread Junior said, that part of the speech of his Honourable Friend, who had just sat down, made it necessary for him to intrude a few moments on the House; he alluded to what had fallen on a former night from a Gentleman very near and very dear to him, respecting an insinuation of Mr. Palmer's insanity: He declared that he believed the idea was suggested by the purest, the most humane motives; but the fact was as his Honourable Friend had stated it to be. He bore equal testimony to the sanity of Mr. Palmer; and said he could do so with the greater confidence, having seen him, known him, and having had the honour of corresponding with him; he knew him to be a man of the most engaging manners, and of the most enlightened mind. The greatest proof, if any proof were necessary, of his firmness and his fortitude, Mr. Whitbread said, was the manner, and the philosophic mind, with which he bore up against this unheard-of oppression; inasmuch that he could not help thinking of him as Seneca says of Cato, that "there could not be a sight more delectable to the gods than to see a virtuous man struggling with adversity."

As long as he had the honour of a seat in the House, Mr. Whitbread declared, he had never heard a speech which so strongly excited his indignation, as that of the Lord Advocate; and he hesitated not to declare, if the law of Scotland was such as it was represented to be by the Learned Lord, it was a law of tyranny and oppression, and it was absurd to speak of personal liberty in that country: He had heard it asserted, that the laws of England were too light, that sufficient punish-

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ments were not inflicted on those who were convicted of seditious practices: If the fact were so, it was a fault on the right side, because sentences inordinately severe led to inconvenience and to mischief. He censured the mention of a person's name whose trial was yet under agitation, and declared that the same style of prejudication had accompanied the other instances of the proceedings of the court, and particularly that of Mr. Palmer. In proof of the assertion, Mr. Whitbread recited that part of the Lord Advocate's speech on the trial of Mr. Muir, in which the Learned Lord said, "A man may be known by his company; and there is a coadjutor of his now under trial who *will share the same fate.*" Men may be prosecuted into popularity, he would admit; and the severity of the punishment often destroyed the intent. But if the ministers of this country should dare to introduce the laws of Scotland, he hoped there would be found men bold enough to impeach them. He left all encomiums on the Scotch law with the Learned Advocate; if his accounts of it were true, none but a slave could love a constitution where such laws as those of Scotland were suffered to exist; and none but a slave could praise them. Impartial posterity could alone be the judge on this unfortunate business. Let the minister, however, beware how he pushed matters to a crisis; it was not the fettering of hands, confining of bodies, or transporting of persons to Botany Bay, which could repress the sentiments of truth, or annihilate the cause of justice.

Mr. Whitbread concluded with the following Latin quotation from Tacitus:

"Quo magis scordiam eorum irridere libet, qui presenti potentia, credunt extingui posse etiam sequentis ævi memoriam: Nam contra, punitis in genis gliscit auctoritas, neque aliud qui ea savitia usi sunt, nisi dedecus sibi atque illis gloriam acquirere."

Mr. Windham said, he thought the question before the House so peculiarly the subject of legal disquisition, and so exclusively the business of those Gentlemen who professed the law, that he should not have risen, if an Honourable Gentleman on the same side with him (Mr. Sheridan) had not set him the example, by speaking to it, and encouraged him, by applying to matter totally distinct from the subject. He could not, however, assent to the opinion of the Honourable Gentleman, that, in treating the matter, the House was not to be restricted to forms, or confined within legal trammels. He would indeed allow, that, in constitutional questions, a large and liberal view was more fit for the adoption of that House, than the precise and formal habits of inferior courts. But this he conceived to be a mere question of law.

The first point for the consideration of the House was, whether the trial, the verdict on that trial, and the sentence on that verdict, were legal or not? This, the House would see, was confined to perfect legal strictness. He was, however, sorry to be obliged to say, that the Honourable Gentleman, in arguing the matter, had neither proceeded on principles of law, nor applied himself to the general merits of the case; but had chosen to discharge the more pleasant task of entertaining the House with allusions to the opinions of certain persons expressed upon former occasions, and drawing far-fetched conclusions from those opinions, in order to apply to the subject in discussion; although he would be bold to say, that no one could seriously find any the most remote resemblance, any the most distant communication, between them and the arguments that really applied to the subject before the House. The opinions to which he alluded, were those of considerable persons in that House and elsewhere, respecting a parliamentary reform; on which subject he would only say, that whatever great and wise men might once have thought of it, long experience, and the signal example of the present time, had convinced them that they were wrong.

The Hon. Gentleman had taken up, with strong marks of resentment, an expression that had fallen from the Learned Lord Advocate, *viz.* that the country was divided between two classes; associators, or those who were attached to the constitution on the one hand; and those who had seditious views on the other; and that there were no middle men. He, for his part, should be sorry to think that there were none; though he feared that, in the general conduct of public business, men found a disposition either to one party or the other, rather than to take a middle course. The Honourable Gentleman himself seemed to insinuate that he was one of those middle men: He (Mr. Windham) was disposed to believe it might be so, but he feared that the Honourable Gentleman had nevertheless *a little leaning to one side.*

Mr. Windham said, that with respect to the challenging of the jury, which the Honourable Gentleman had so very warmly reprobated, he, not being a professional man, could not with certainty say how far it was right; but until he saw or heard stronger reasons for censuring it, the decision of the court being in its favour, there was a strong presumption of its being right.

Great stress, he observed, had been laid on what had fallen from the Learned Lord Advocate respecting the objections of Mr. Muir to the jury; and which objections had been maintained by the Honourable Mover, and the other Honourable Member (Mr. Sheridan), and amounted to this, "That no

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one man was fit to try a traitor who was hostile to treason." This he contended to be a false inference. All honest men, who try a criminal, must necessarily be enemies to the crime in a greater or lesser degree, in proportion to the magnitude of the crime, and the remoteness of its effects; but in crimes against the public, all men were nearly concerned; and if the doctrine he was attempting to refute were held good, none of course could try. As to Associators, in times of imminent public danger, men were obliged to associate for the public security; but by no possible inference could this be deemed a disqualification to serve on a jury for the trial of a seditious person or a traitor.

The Hon. Gentleman had asked, with considerable emphasis, who that man was who would be bold enough to say, that the laws of Scotland should be preferred in such cases to those of England? He, for his part, would be the one to say, that if justice was balked, and the laws were not adequate to the punishment of crimes, he had no difficulty to declare his opinion that they should be made so. There was no necessity to follow Scotland in her laws, if wrong; but laws should be made adequate to the prevention and punishment of crimes, or all security of life and property was at an end. If the crime of *leafing-making* was confined to a narrow compass, there must be something short of high treason, for which provision should be made, particularly in cases of crimes against which the utmost vigilance should be observed, such as writings, speeches, and other efforts to disturb the public repose. That, however, was not the question then under consideration, but, simply, whether the trial and its proceedings were legal? On this subject he had heard, with the greatest attention, the Hon. Gentleman who had made the motion, and he had not the smallest hesitation to declare his decided opinion, that, under the word Banishment, the court was invested with the fullest power, and that that power had been long exercised; and as to the idea of banishment, merely as relied on, it was idle; for banishment necessarily implied a power to *force* away to some particular place or other, and could not be executed generally.

The Honourable Gentleman (Mr. Sheridan) had said, that if the House decided against this question, it would establish the fatal doctrine, that no inquiry should be made into the conduct of courts without having proof of actual illegality before it. This he denied; and hoped the House would never enter into an inquiry when they had (as in the present case) proof before them that the sentence proposed to be inquired into was right. He declaimed at some length on the fashionable theme of conspiracy and treason, and concluded with

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giving his opinion, that there were serious grounds for apprehensions; and that he firmly believed there were now in the heart of this kingdom, innumerable persons of dangerous principles and dangerous intentions.

Mr. Fox spoke substantially as follows: "I declare, Sir, it was my wish that this question should have been neither agitated in this House, or the House of Lords; but since it has been brought before this House, and since doctrines of the most extraordinary and monstrous nature that ever fell from any Gentleman within these walls, have been advanced by a Learned Lord opposite me, who has risen to vindicate the conduct of the tribunal of Scotland, and to defend that part which he has taken in the proceedings, notwithstanding the lateness of the hour, I should feel myself deficient in the duty which I owe my own character, as a representative of a great and free people, if I withheld my sentiments, and contented myself with giving a silent vote on this occasion. The present is a question of the greatest importance that ever came before the House: A question which involves in its consideration, not only the fortunes of two suffering and oppressed individuals, but the consequences which will be produced to posterity, by establishing a precedent dangerous and inimical to their liberties. No wonder my Honourable Friend, who has just sat down (*Mr. Sheridan*), should have displayed such honest and animated indignation, and expressed himself in so feeling a manner on such an important subject; but there is one point in the speech of my Honourable Friend, which I cannot help taking notice of, and on which I am under the necessity of entirely dissenting from him. My Honourable Friend has declared, that if any minister should dare to introduce into this country the laws of Scotland, he hoped there would be found in this House men bold enough to impeach him. I cannot agree on this point; for so dearly do I prize the freedom of debate, with such veneration do I esteem the free and unlimited discussion of any political or constitutional question within these walls, and so jealous am I of every thing which would look like an infringement of this our most valuable privilege, that if a minister were to advance the most dangerous and most horrible principles, if he were even to propose a Bill to this House to alter the succession to the Throne, and introduce into the place of our Sovereign a foreign pretender, I would hold him justifiable even for the unconstitutional measures he attempted to introduce, and with my voice I would endeavour to rescue him from a public impeachment, or public prosecution. The Learned Lord over against me, in his pa-negyric on the laws of his own country, has thought proper to throw

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throw out insinuations against and stigmatize the laws of England. From his train of reasoning, and from the many arguments he has brought forward, in attempting to defend his favourite system of Scottish jurisprudence, it struck me, and it must have struck every man, open to the most common impressions, that it was his sincere and fervent wish, that his native principles of justice should be introduced into this country, and the infamous fabric of Scottish persecution should be erected on the ruins of the common law of England. Indeed, Sir, when I recollect what has been advanced by the Learned Lord, I can easily account for the sentence pronounced against these two unfortunate gentlemen. If that day should ever arrive, which the Lord Advocate seems so anxiously to wish for, should the tyrannical laws of Scotland ever be introduced in opposition to the humane laws of England, it would be proper for my Honourable Friends and me to accommodate our affairs, and retire to some happy clime, where at least we may enjoy those rights which God has given to man, and which his nature tells him he has a right to demand.

“I will now address myself to my Honourable Friend (Mr. Windham) who has just sat down, and I will ask him what he means by talking of the laws being adequate? Does he mean to assert, that the laws of this country are not adequate to punish sedition? There was a time when he agreed with me, that the laws were adequate; and he must think so still. He has told us, that if they are not sufficient to check the career of sedition, laws ought to be introduced to answer that purpose. Would he introduce the tyrannical laws of Scotland? No; struck with a sense of the cruelty of the punishment which had been inflicted on these gentlemen, struck with the conviction of the iniquity of the whole proceedings, struck with a veneration due to the laws of this country, and an apprehension of the inevitable and fatal consequences that must result to English liberty, from the horrors of such innovation, he has qualified a little his expression, and has ingeniously slipped in an *if*; “But *if* (as Shakespeare has said) is your only peace-maker.” My Honourable Friend has said, if the laws are not adequate, why then let the laws of Scotland be introduced in their place. The question, Sir, is unfortunately a complicated one. In complicated questions it will always happen, that there are some particular parts in which Gentlemen will disagree; there will be parts that some will overlook, and others will combat; but in every question, however intricate or comprehensive its views, there are certain essentials, in which all who value truth, or act from the honest impulse of their heart, must be unanimous. Most true it is, Sir, that in every

country there will be points on which the sentiments of men will be at variance, for it is the nature of men to differ; but justice in every country is the same, and in what relates to her there can be but one opinion. If, therefore, this sentence must in England be considered as notoriously unjust, and repugnant to every principle of humanity, it is impossible for ingenuity to varnish over such a system of iniquity, or give to that, which, on its very face, wears the features of cruelty and oppression, the appearance of justice or humanity.

"Now a few words as to precedent: Let us examine a little what the Lord Advocate said on that subject, and I will be bold enough to assert, that, except in one instance, I mean the Statute of Bankruptcy, he has not pointed out a single case which bears on the present motion, or warrants that interpretation he has put on the word Banishment. With respect to the Act of 1703, it is a limiting Act: It uses the word Banishment. In the statute of 1672, the word Banishment is mentioned with additions. So that if Gentlemen examine all the statutes which have been made, it must strike the minds of those open to conviction, what the real meaning, and the fair and honest interpretation, of the word Banishment implies.

"The Lord Advocate, to vindicate the proceedings of the trial, and give it at least an air of justice, has treated the word in rather a singular manner, and has endeavoured to prove that it is synonymous to Transportation. Let us refer to the last statute quoted, in 1672, and Gentlemen will clearly discover that when it was the intention of the Legislature to extend banishment to transportation, the place destined for the culprit's transportation was specially declared; hence in the statute of 1672, we see banishment to the West Indies; if this word extended generally to transportation, why is the place pointed out in some cases, and omitted in others? The reason is obvious; when the law of Scotland only meant simple banishment, that is exiling a man from his country, it only used the word; it gave him the liberty of chusing a spot for himself. But where the offence called for more severe punishment, the place was identified. There is one statute, and only one, which makes in favour, and that is but a poor assurance, the statute of 1696. That statute enacts, that banishment, or otherwise, should be the consequence, on conviction: To argue on the word *otherwise*, and make it a ground for a severer punishment than the word Banishment, will be contrary to all rules of law; and in my mind they cannot by any means at all avail themselves of this statute. The statute of 1704 was made by the Privy Council of Scotland, the most reprobata

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probate and despicable tribunal that ever disgraced the annals of its history. And we know this, as well from the act itself as from what fell from the Noble Lord on the Woolfack last year, who, when the precedent of the appeal to the Privy Council of 1704 was stated, declared he would pay no attention to any thing that came from that most infamous and reprobate tribunal, and would not suffer it to be argued from, because it was no precedent. It appears to me, as it must to every man of sober reflection, a matter of astonishment, how this memorable Privy Council, enrolled in the annals of infamy, had escaped an impeachment; but there is this consolation to all good men, that if it formerly passed unimpeached, the recent investigation of its merits has rendered it the most detestable that had ever usurped legislative authority. In defiance of an Act of Parliament, it exceeded its boundaries to punish with pillory and infamy the unhappy victim of its spleen or malevolence. It is futile and absurd to say, that this infamous and abandoned tribunal is unimpeachable, because some of its members were active in the Revolution. This is no proof of its rectitude; because I have every reason to believe, that those concerned in the Revolution were not actuated by the best or the purest motives.

"I come now to this enormous and gigantic sedition, which has induced the Lord Advocate to ransack precedents which have lain dormant for two centuries. In the last century he says there are no precedents, though in that period there were two rebellions; and we find the name of Graham, and several others, who were convicted of more atrocious offences, but punished with less severity. But what is this sedition? The Lord Advocate has mentioned the name of Mackenzie, and has misquoted him, in support of his own principles; this is an authority however which I never mention without reluctance and humiliation (but I am obliged, as there is no other constitutional writer), because I cannot help recollecting that this very man was the principal supporter of the judicial tyranny of the House of Stuart, which is now reviving with unabating fury in Scotland! Indeed, Sir, so strikingly disgusting are all the features of this trial, and so enormous its proceedings, that when I first heard of them, I could not prevail on myself to believe them; the charge itself, and the manner in which that charge was exhibited, made my blood run cold within me. I read the first edition; I discredited: I read the second and the third editions; I was inclined to disbelieve them all; nor would I even believe it now, had not the Lord Advocate risen, and, in the face of the House and his country, acknowledged the whole transaction, and maintained

its justice, its humanity, its legality! If this be the law of the country, I am astonished that we (in opposition) have not been sent to *Botany Bay* long before this time. But if sedition is to be proved by such an evidence as Ann Fischer, which in no civilized country would be permitted, there is an end of justice. This infamous evidence, this domestic spy, was even questioned respecting the private and unguarded conversation of her master, and her testimony was allowed, because it was solicited. Good God, Sir, what man amongst us, if our servants and our friends were called to give evidence against our private declarations, would not stand guilty? and which of us would not be liable to transportation? If so tyrannical a law exists, our fortunes, our honours, our lives, are at the disposal of the executive power. But since the Lord Advocate has introduced a neighbouring country, and has spoken much of the word Sedition, I will ask the Lord Advocate where he is to find this word Sedition? You cannot find it in the common law of England or Scotland; but I will give him a little assistance to help him out of his embarrassment, and will advise him to change this word into *Incivism*. That nation will not, for corresponding with the Austrians and Prussians, convict you of this offence; but correspond with the Duke of Orleans, and you will be guilty of incivism, and you will be doomed to the guillotine. Let the Lord Advocate imitate the example of France; let him convert sedition into incivism; and let him, like that unfeeling and ferocious people, doom the accused and suspected to Botany Bay or the guillotine. Let him tell me where I can find a common law case of sedition in Scotland: The only authority he can produce is Mackenzie's, and that is unfavourable. Let him tell me the general reasoning of justice, or by what laws of eternal justice, it is too great a liberty for professional men to expect that we will pay implicit obedience to their doctrines. Does the Lord Advocate suppose that I will give unlimited confidence to his *ipse dixit*? he is wrong if he imagines we are not equally capable of discussing subjects of legal policy. It is evident, from all that has been said, that the legality of Messrs. Muir and Palmer's sentences is highly questionable.

"Those who thought Mr. Muir was gently treated, by giving him leave to exist on any terms, judged with unparalleled harshness and cruelty. Let them reflect for a moment, and they will acknowledge, that, to a gentleman of Mr. Muir's education and talents, there is very little difference between sending him for fourteen years to Botany Bay, and the ordering him for immediate execution. Perhaps the latter would be more charitable and humane! Upon what principles of eternal

eternal justice and eternal right is such a crime as sedition punished with all these bitter aggravations of cruelty? The savages, accustomed to wolves and tigers, possess a much greater portion of humanity! Let these proceedings be torn from the records of a Court of Justice; and let the whole transaction be sunk in an eternal oblivion by a manly acknowledgment of error!

"My Learned Friend, who opened the debate, has clearly shewed, that the Panels were indicted on the statute of leasing-making; we have seen also that the punishment inflicted on the convicted, is either banishment, fine, imprisonment, or corporeal punishment. The Lord Advocate has seriously asked the House, if these men were not transported, what would be done with them? Says he, Shall I imprison them? Imprisonment is a poor chastisement; a jail is only the nest and den of iniquity; here offenders are only taught to revile their judges and jurors; here they meditate new schemes of sedition. Would you impose a fine on them? that would be easily paid by some rich friend leagued in their conspiracies. The humanity of the Lord Advocate would not suffer him to talk of inflicting corporeal punishment on gentlemen of education, and their respectability. From hence he infers the only punishment to be inflicted on them is banishment; but it has been proved to you, more than sufficiently, that banishment cannot extend to transportation without annexing the name of the place destined for their exile. On what ground? Sedition has been defined to be public commotion; public commotion, by the laws of both countries, is high treason. Had they been indicted for sedition, they must have been convicted of high treason, and must have suffered death. On this ground the judgment cannot be supported.

"But before I proceed any further, I would beg to address a few words to my Hon. Friend (Mr. Windham). I confess I am astonished to see that Gentleman so suddenly change his principles and professions; commencing an alarmist, and affecting to tremble for his King and constitution. It is disagreeable to tear up old but unpleasing truths. I cannot, however, help reminding him, that there was a time, though he had not then a seat in this House, when he took an active part, to bias the opinion of the people with respect to their Sovereign during the unhappy American war, and would not suffer the smallest encroachments of arbitrary power. It was a time when it was his chief delight to rally round the standard of Liberty, and to invite and encourage volunteers in her service; and I myself heard him speak most disrespectfully of one of the Chief Justices; (I know not if the compliment was returned.)

turned.) I do not pretend to say he belonged to clubs; but this I am sure, he was present at one or more; he ran about from town to town, conversing with artisans on the rashness of the war; and he delivered his sentiments hostile to Government, at Norwich, and other places: He would have thought then he would have been hardly dealt with, if he was condemned as an enemy to his King and Constitution, because he was an enemy to the American war.

"Why are Mr. Muir and Mr. Palmer to be considered as enemies, sowing the seeds of sedition, of anarchy and confusion, for only pointing out to the people those privileges which they should enjoy, and which they are unjustly denied? Sedition is of a generic nature; there are different species of sedition; and there is a species of sedition of which the Lord Advocate himself has been guilty, with regard to this trial; one fact so glaringly scandalous, that I cannot pass it over in silence; I allude to the conduct shewn two witnesses on this trial; one of these, who was incompetent to give evidence, was admitted; whilst the other, on the pretext of his credibility being doubted, was rejected. I contend, with respect to Russell, the credibility of his evidence ought to be left to the jury, instead of the judge usurping their province. With respect to Johnson, I have only to observe, there was the greatest partiality. The witnesses were not fairly admitted, and consequently Mr. Muir could not have a fair trial. I believe, Sir, the majority of this House are Associators; but I intreat them to recollect they are also representatives; and let me ask, if these associations were founded on established law; or were they self-created? If they were not formed by the command of the Legislature, no man ought to be censured for not performing a duty which is not legally imposed upon him; consequently the Learned Lord must have been hurried into an intemperate warmth of unguarded assertion, when he declared, that, on Mr. Muir's objecting to one of those Gentlemen being on his jury, who belonged to an association which had prejudged him before his trial, that "if this objection be not repelled, he could have no jury at all to try him, but men who were either traitors or conspirators;" for that all men really attached to the constitution had subscribed their names to associations of this nature.

"But there is one strange assertion made by one of the Lords of Justiciary: He says, "no man has a right to speak of the constitution, unless he possesses a landed property; men of personal property, though they may have immense sums in the funds, ought not to say any thing:" How absurd, how nonsensical, how ridiculous! When judges speak thus with levity,

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at random, with ignorance, what is the inference I would draw? that the temper of judges is manifold, from such conduct, a like to which never occurred, even in the reign of the Stuarts. Another Learned Lord, in the exercise of his judicial trust (a trust reposed in him by God and the people), has wandered astray into the *Roman law*, not finding any written precedent in the law of his country sufficiently strong to serve his purpose. Having recourse to this extra-judicial authority, he at last discovered, that, according to that law, the punishment for this offence, as there stated, was either to be torn by horses, thrown into a den of wild beasts, or transportation. He therefore chose the mildest punishment which could be inflicted on the unfortunate Gentleman—*Transportation for fourteen years*, and that act of mercy extended to them. These doctrines are not to be endured, spoken on the most solemn occasion from the sacred bench of justice, by a judge, by one who was performing a duty of the most solemn nature, and who disguised it under the most barefaced hypocrisy. This shews the scandalous prostitution of justice, and that candour and dispassionate temper, which characterized the bench.

"Another of these Lords (for with their names I profess myself unacquainted) asserted that now the torture was banished, there was no adequate punishment for sedition. Here is language which also shews the temper, the ignorance, the levity, the hypocrisy of this imprudent man: Let him be either serious or in jest, the sentiment was equally intolerable; I know not which of them advanced it, but God help the people who have such judges.

"I admit the conduct of a Lord Advocate is less material than that of a Judge; but I do not think that in Great Britain any person should be declared *guilty* before he is arraigned and convicted of the offence. Shall we send Muir, Palmer, Skirving, Margarot, and Gerald to England? said the Lord Advocate. But here he acts with respect to Mr. Gerald as he did to Mr. Muir, and supposes him guilty without ever being brought to a trial. The abuse of discretion was made a topic of debate; but I assert, that when these Lords had discretion, they should look to England. Her legal character was not despicable; they might have regulated their conduct by an emulation of her's. What was the case here? In the case of a clerical Gentleman of the name of Winterbottom, the Attorney-General's humanity had been eminently conspicuous. For sedition Mr. Winterbottom was to be fined and confined. He had unaccountably been thrown into *Clerkenwell Prison* among the *common felons*. As soon as the Attorney General learnt his treatment, with all that humanity which does honour
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to his feelings, he immediately ordered Winterbottom to be removed to the *State Side of Newgate*, exclaiming—"God forbid that a Gentleman, guilty of a *misdemeanor* only (for such he considered *sedition*), should remain the shortest space of time in the company of *felons*!" But mark the contrast! The confinement with felons for *one day*, or *even one hour*, wounded the very soul of the Attorney General of England; but the Scotch judges think it no hardship (nay, they deem it mercy) to inflict punishment for *life*!

"How different was the conduct of the humane Court of Justiciary! they send the unjustly accused and convicted, to herd with the most infamous and most abject, and even think this punishment too mild for the offence. I wish Gentlemen would speak out what their notions are of the law of Scotland. Let us, for Heaven's sake! be informed what the opinion of the House is on this tyrannical law. Were I to live in Scotland, I would conclude my life, my property, and my liberty insecure. I would place no confidence in enjoying either. Sir, it cannot escape Gentlemen, that, not many years ago, there were Associations in this country formed exactly on the same principles that Mr. Muir and his friends had formed their Associations. Sir, it is precisely for those very offences which were committed by those very associations in England, that Mr. Muir and Mr. Palmer are now condemned to transportation for fourteen years.

"But it will be said, that the French revolution has changed the nature of affairs. It may be so; but I wish never to believe that what was once meritorious, what was once fit, and what was considered as the only means of preserving the liberties of our country, can have all of a sudden so changed its complexion, can become so black and atrocious a crime, as to call down on the head of him, who so far reveres the constitution of England as to wish to restore it to its primitive perfection, the unrelenting vengeance of persecution; while those very men, who perhaps set this fatal example, have fled into the arms of power, as into an asylum, and are now enjoying the emoluments of the highest places this kingdom knows, the wages perhaps of their apostacy. Yes, these unfortunate gentlemen have done what the Chancellor of the Exchequer and the Duke of Richmond have done before them. They have done no more. Will this House forget the addresses of these two Gentlemen to the people? and this not to petition for a reform in Parliament, not simply to state the abuses, and in the manner of supplicants to pray for redresses of those abuses, but to demand (I say demand) them as their right. As long as Gentlemen shall remember the Thatched House,

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and these very Associations, it is impossible they can forget their Addresses to the People. O human folly and inconsistency! Why are these very men now exalted to the most envied stations, while poor Muir and Palmer are doomed to waste out the remainder of their lives in a foreign, in a most dreary climate; the companions of outcasts, felons, the most degraded of the human species! And have we not at some period or other all of us called assemblies? Have we not all of us been guilty of crimes which might drive us to Botany Bay? Happy am I to boast, that however I may disapprove of those violent prosecutions which have been conducted in this country against individuals on charges of sedition, which, when compared with the trials now before us, are merciful and humane; happy am I to boast, that it is my fortune to be a subject of, and to live in England. Were I a native of Scotland, I would instantly prepare to leave that land of tyranny, and of despotism! Till these infamous laws be abrogated, you may talk of justice; you may talk of juries; but all trials are mockeries! Till these infamous laws are abrogated, the liberty of the subject is unsafe and unprotected; and Scotland, like France, is a land of despotism and oppression.

"Till such time as there is a law to send me to Botany Bay for avowing my sentiments, I shall think it a duty incumbent on me to condemn the actions of those in power, whenever they call forth the general execration of mankind. If England, unhappily relapsing into despotism, should ever be governed by such principles, then farewell, a long farewell to our boasted freedom! And sure I am that no country connected with it can ever enjoy civil liberty!"

The Chancellor of the Exchequer said, it would be unnecessary for him to detain the House long, after so ample a discussion of the subject. In order to prove the legality of the proceedings in the trials alluded to, and the sound discretion exercised by the Judges, little more was necessary than to recapitulate some of the arguments of the Lord Advocate; though, in doing so, he was apprehensive that they would lose much of their impression. The grounds of discussion were simple; and, in his opinion, an inquiry into this business would lead to the conclusion, that no doubt could be entertained, either of the legality of the trials under review, or of the propriety of the manner in which the Lords of Justiciary had exercised their discretion upon the occasions. Upon a general view of the various aspects under which the question had been considered, it would appear that the legality of these sentences would depend altogether on the construction and operation of the act of 1703, which recognised the power of transportation in the Judges;

Judges; which power was acted upon eight months afterwards by the very persons. He also quoted a string of cases from the year 1587, down to the present time, in which the sentence of transportation beyond the seas was occasionally inflicted. By the common law of Scotland, the Judges possessed an arbitrary power to regulate all punishments short of death, where there was no specific punishment prescribed by the statutes; and by the before-mentioned statute of 1703, the Court of Justiciary was empowered, under the general term Banishment, to pronounce sentence of transportation. The judgment of 1704, by which the act of the preceding year was enforced, was considered by Mr. Fox as of no authority, as it was done by order of the Privy Council, which came in for a liberal share of his severe invective. But however applicable such invectives might be to former periods, under the reign of some of the Stuarts, they by no means applied to any period subsequent to the Revolution; for unquestionably the reign of King William, or the Whig government of Queen Anne, were certainly not inauspicious to British liberty. That the power had not been of late so frequently exerted, was owing merely to times and circumstances not demanding it. By arguing upon the present cases, as cases of leasing-making, his Honourable Friend (the Lord Advocate) did not mean to assert, that even for that offence judgment of transportation might be pronounced; but had only remarked, that, in his opinion, it was most proper to prefer indictments for sedition, which made the delinquents liable to incur arbitrary punishments, according to the Scottish law. Previous to the passing of the act of Queen Anne, leasing-making, under various modifications, was made a capital offence by different acts of Parliament. The object of that statute was to take away the capital punishment of the crime, and to substitute fine, imprisonment, and banishment, or any corporeal punishment in its stead. Upon an attentive consideration of the statutes, to which he begged leave to refer the House, it would, however, appear, that the term Banishment had not been used as pointing out any particular way in which a punishment was to be inflicted, but had only been stated as one among the many modes of arbitrary punishments, which the Court of Justiciary were by that statute empowered to substitute in lieu of the capital one which was formerly used. If, therefore, the punishment annexed to these crimes was arbitrary, the Legislature must certainly have meant to invest the Judges with a discretionary power; and as the Parliament had frequently specified the exercise of the mitigated mode of banishment to which some Gentlemen had alluded, it would follow, that where no such

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such specification had been made, the general power of banishing, according to the utmost extent of the term, was meant to be given to the Judges of whom he spoke. From a variety of precedents which had occurred from the year 1687 to 1754, it would appear, that the term Banishment had been used in the sense put upon it by his Hon. Friend (the Lord Advocate), and that the statute of Anne had adopted it in the same manner.

Having stated the different precedents, the Chancellor of the Exchequer proceeded to remark, that in all the instances which he had adduced, the sentence of banishment had been followed up by orders for transportation. The whole, therefore, of an Hon. Gentleman's argument, proceeded on his having confounded the distinction between capital and arbitrary punishments. That the statute of Anne meant to give the Judges the power of substituting the latter in lieu of the former, would appear still more evident from the case of Bailey, which happened soon after the statute was passed. In order, however, to evade the force of this precedent, a violent attack had been made upon the Privy Council, by which the sentence was pronounced. For some years previous to the Revolution, especially during the reigns of Charles and James the Second, he admitted that the proceedings of the Privy Council were justly obnoxious to the people. But, after the Revolution, that Council was not supposed to be inimical to the progress of civil liberty; on the contrary, during the reigns of King William and Queen Anne, the members of it were always deemed the most zealous friends to the freedom of the nation. It had been argued against the authority of this precedent, that the Parliament had deliberately suffered the law which it passed to be violated by this Privy Council, as another punishment had been added to those which had been pointed out by the act. This argument, however, proceeded upon a misconstruction of the act in question: The punishment was arbitrary; and it being so, the pillory might be superadded to it without any violation of the law in question.

At this distance of time it was impossible that we could precisely know the objects which the sentence against Bailey had in view; but the presumption ought surely to be, that the sentence was legal, and that consequently the Court had the power of superadding corporal punishment and infamy to fine, imprisonment, and banishment. It might, perhaps, be contended, that all these remarks on leasing-making were superfluous, because the present offences had been stated as instances of sedition; and from thence Gentlemen had been pleased to conclude, that they were not at all punishable by the existing law

of Scotland. If it could be seriously asserted, that no punishment was by that law provided for the numerous class of crimes which in England were punished either as misdemeanours or libels, if that law was so defective, and authority upon that subject so silent, that civil society, of which we were members, had the right, through its magistrates and judges, to declare wherein sedition consisted—an offence which was permanent in its nature, however modified by circumstances, times, and seasons; in that case some alteration was absolutely necessary. On the contrary, however, he conceived, that by the common law of Scotland, all of these offences, which were not included within the five statutes against leasing-making, were sedition, and consequently liable to incur arbitrary punishment. These crimes of sedition were made treason by the act 1584, and that act continued in force till the year 1707, when Scots and English treasons were assimilated to each other; and thus, according to the argument of the Gentlemen opposite, in the interval between 1703 and 1707, the offences contained in the act of 1584 were either reduced to non-entities, or converted into leasing-making or sedition.

Having discussed all those verbal distinctions of the difference between transportation and banishment forth of the kingdom, and the various technical points which occupied so much of the former part of the debate, he treated of the form in which the libel against Mr. Palmer was worded. It mattered little to the question, whether sedition was a word in general use in the law proceedings of Scotland. Sufficient proof had been already given, that, upon the charge of leasing-making only, the defendants were liable to the penalty of transportation; but the Lord Advocate had shewn sufficient reason for accusing them of the crime of sedition.

It did not depend upon rules of courts, or particular modes of proceeding, to constitute this an offence; for, in the nature of things, it was evident, that sedition must ever be a substantive crime in every civilized state, and in every government that existed under the sun. If it were otherwise, the frame of society would quickly be destroyed, and all establishments be at an end.

It had been stated as a very singular phenomenon, that no recent instance had offered itself in practice with regard to sedition in Scotland, and yet there had been two rebellions in that country. But whoever had considered the political agitations of that part of the united kingdom, must have seen that the struggle there was for the higher exercise of power and prerogative in a certain family, and not for the propagation of principles, which, by exciting discontent and insurrection among the lower orders of the community, had a tendency to

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promote sedition. To shew what kind of offence sedition was understood to constitute, according to the law of Scotland, he stated the opinion of Sir George Mackenzie. The character of this writer, he observed, had been treated rather slightly in the course of the debate, on account of his attachments; though, when Gentlemen found that he was likely to serve their turn, they chose to mention him with more respect. For his part, he should refer to him the more willingly, as he was considered in Scotland as very high law authority, and he seemed to be pretty much relied on as such, even by those who most warmly censured him. In his commentary on the statute 10 James VI. c. 10. he enters into a minute description of sedition, which must be an offence, varying according to particular acts, times, and countries, but which, upon the whole, must, in Scottish jurisprudence, have ever been esteemed a distinct and specific crime, liable to the infliction of arbitrary punishment: It therefore appears that Sir George defines sedition to be a crime deserving of capital punishment, whenever it may lead to any commotions amongst the people: And that the offences of Mr. Muir and Mr. Palmer had that tendency, could scarcely be denied.

The legality of the proceedings being thus established, he next called the attention of the House to the circumstances of the trial, as stated by the Lord Advocate; and, without inquiring whether the country was exactly divided into associators and republicans, he said, he must remark that the jury having belonged to the Goldsmiths'-Hall association, could be no just cause of challenge, as they might still act with the most impartial justice towards the libeller, however they might hate the libel. An Hon. Gentleman (Mr. Fox) had uttered a panegyric on non-associators, and yet he himself had become a member of an association (that of St. George's, Hanover-Square); an association which subscribed a sum of money for the prosecution of libels; so that in his opinion it was innocent at least: And though the Goldsmith association did not chuse to admit Muir of their number, yet could that circumstance be any serious cause of challenge to a jury composed of its members? This whole transaction had been represented as most oppressive; but, stripped of all party exaggerations, it would appear that the question with regard to Flower's book had been waved; that, instead of ransacking the actions of Muir's life, none but those of the three last months of it had been inquired into; that his exculpatory witness, James Ruffel, had not been examined, owing to his own misconduct; and that the circumstances which he was called upon to prove, were unequivocally admitted by the Lord Advocate.

Having satisfactorily explained the propriety of trying the defendants for this crime, he treated with an air of ridicule the pleasantry of Mr. Fox, in representing sedition to be a good thing; whereas it subsisted in England to a considerable extent during the last century, without producing any great mischief, though there were two rebellions in Scotland, where sedition was said to have been dormant. From the violent agitation of the public mind in Scotland during the last century, it certainly did happen that there were a number of offences committed against the state; but when the circumstances were considered, it would not appear extraordinary that they were not of that range or description that were comprehended under the term Sedition. The contest then was, which of two families should occupy the throne of these realms; but neither of the parties were inclined to the destruction or diminution of the royal authority.

Referring to the circumstances of the trial of Mr. Muir, he contended that the challenge against the jury for belonging to an association which refused to admit him a member, was by no means sufficient. That association was formed for the support and defence of the existing constitution, and would not suffer themselves to be mocked and insulted, by permitting the names of Mr. Muir and his friends to be placed amongst the list of its members, as they knew their principles, and observed that they signed themselves, "*Friends of the People*," which was another society, and with very different objects. It did not follow, however, from a rejection of that kind, that the gentlemen of such an association were not proper persons to try upon their oaths the commission of an offence. Their professed aversion to seditious practices was no reason why they should convict another of sedition, provided he was innocent. Suppose, for instance, that a jury was to convict a printer of selling the libellous books of Tom Paine, and that another printer was brought before the same jury for a similar offence, he believed Gentlemen would scarcely contend that it would be a fair challenge for the second printer to say, "I object to this jury, because they have prejudged my case in their former verdict."

He thought Mr. Fox rather unsuccessful in his endeavour to draw any thing like a parallel between Mr. Palmer and himself (Mr. Pitt) on the opinions they held respecting a Parliamentary Reform. Whatever he might formerly have thought or said upon that subject, he had occasion last year to state the reasons why he was at this time prepared firmly to resist it. All that had since occurred tended to confirm him in these sentiments,

sentiments, which he was ready to demonstrate whenever an opportunity was afforded him.

In representing the hardships of these trials, Gentlemen were not contented with few or ordinary complaints. It was not sufficient that the indictment should be improperly laid, the jury picked, and the judges partial; it was also requisite that the evidence should be unfair. Their first complaint in this way was, the commitment of Russel for prevaricating in his testimony. He insisted that, by the course of proceeding in the courts of Scotland, a number of preliminary questions were constantly asked in the same manner as the *voir dire* in the courts of England. But these questions went to the competency, not the credibility, of the witness; and that competency must be affected by manifest prevarication. As to the objections to the evidence of Anne Fisher and others, he treated them as frivolous.

In defending the conduct of the Lord Advocate, he paid him many handsome compliments, and represented the use that had been made of his having hastily used the name of Mr. Gerald, amongst four others, who had already been convicted, as extremely unfair. Mr. Gerald could not, at least at present, be prejudiced by the mention, as he was probably at that moment either convicted or acquitted; and he conceived the Lord Advocate to have made a very proper observation on the impolicy of banishing persons of that description back again to London, to revisit their old haunts, and renew their occupations. The conduct of the Judges, through the whole of these proceedings, the Chancellor of the Exchequer said, appeared to him to have been highly meritorious, and advantageous to their country. In the present critical posture of affairs, they foresaw the dangers that might result from the exertions of disaffected persons, and usually applied those powers which the law and the constitution gave them for the protection of the Public.

It was certainly very true, that, in the exercise of their arbitrary power, they might have inflicted upon those gentlemen punishments less severe. But there were seasons when the law must be enforced with all its severity; for it would be absurd to suppose that they would either allot or allow punishments for offences, which punishments were never to be applied. Divested of that necessary and salutary example which alone can reconcile men of humane feelings to the infliction of rigorous punishments, it could be no difficult matter to excite our sympathy for individual sufferings. It was, indeed, much to be lamented, that gentlemen of their rank and education should be so degraded in their punishments as to become the
associates

associates of the vilest convicts; but it must be remembered, that they knew what they were incurring; and that they were propagating principles which should never be the growth of liberal and well-educated minds. Considered as gentlemen of some station, the bitter reverse of their condition was the more deplorable; but their being gentlemen was not a sufficient reason why any exception in their favour should be made of these laws, framed for the government of his Majesty's subjects in general.

With regard to the pretended accuracy of the accounts which had been published of the trial, and particularly those which reported the speeches of the Judges, he gave no credit to it. They put a scrap of Latin into the mouth of one judge, and a deduction from the Roman law into the mouth of another, which, if used at all, must have been used by way of illustration.

He declared himself well satisfied of the legality of the sentence, and said he was not disposed to entertain surmises to the prejudice of the Judges, on account of any mistaken expressions they might have used; nor would he think it at all necessary to enter further than he had done into any justification of his Hon. Friend (the Lord Advocate) with regard to the part he had acted in this business, nor of his own behaviour in the question of Parliamentary Reform; and, lastly, he had no scruple to say, that he should have thought the Judges highly culpable, if, vested, as they were, with discretionary powers, they had not employed them for the present punishment of delinquents, and for preventing the future diffusion of their doctrines.

Mr. Fox explained, and corrected *Mr. Pitt* in some of his recapitulations of his (*Mr. Fox's*) speech. He also denied that he belonged to an association of the description alluded to by the minister. He was indeed one of a meeting in which it was thought right to make constitutional professions, and to assist the civil magistrates in carrying into effect the authorities vested in them, in case any tumults or insurrections should actually take place; but he had not become a subscriber, and he thought he never should, for the purpose of prosecuting any individual circumstanced as *Messrs. Muir and Palmer* were. He moved for that part of the Bill of Rights to be read which treated of severe and excessive punishments; which having been done,

Mr. Adam rose to claim the attention of the House to a short reply, as several circumstances which had fallen from the Lord Advocate, *Mr. Pitt*, and *Mr. Windham*, required observation. First, the Learned Lord had accused him of ig-

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ignorance of the law of Scotland. He hoped it was not his habit to boast of his knowledge on any subject; but it was his pride to boast of attention and deference to that House; and these feelings made him always exert himself to be master of the subjects which he had occasion to discuss within those walls. He had done so in the instance before the House; and he was not ready so far to disqualify himself as to say, that he was incapable of being master, with professional habits, of such a subject as the present. The Learned Lord had boldly charged him with an erroneous account of the act of 1703, and said, he would give its true history. Mr. Adam said, he had watched and listened for that history, but in vain, for it had never been given.

The Learned Lord had said, that he (Mr. Adam) had applied to this case the rules of English pleading. He called upon the Learned Lord to specify in what instance. He would shew that throughout he had put every part of the case upon the rules of the Scotch law; for instance, *art and part*, or the law of accessory. He admitted the mode of pleading in Scotland to be more large and uncertain, in point of time laid, than in England: His objection was not to that; but to this, that the facts proved under *art and part* were facts that did not fall within the time laid in the indictment. He desired the Learned Lord to prove, that the abuse of the Courts of Justice, proved by Anne Fisher, was within the time laid down in the indictment. With respect to the evidence of Russel, he never had alledged it to be the law of Scotland, that if a witness was proved to have been instructed, that witness was competent; but the question here was, whether Russel was or was not instructed? It was supposed that he had prevaricated on that subject; if so, the testimony of the witness must go to the jury, who were alone judges of the credibility of a witness; and prevarication was invariably a question of credit, not of competency.

It had been said, that if the witness had been spoken to after his citation, respecting his evidence, it was a ground of rejection. The proposition so stated, he could not admit to be the law of Scotland; it might be, that if the party, or agent of the party, spoke to the witness after citation respecting his testimony, that would be a ground of rejection. But that was not the case here; for there was no proof that the party, or his agent, had spoken to him.

With regard to the question respecting the jury, the Learned Lord and Right Hon. Gentleman (Mr. Pitt) had argued it as if it was an objection of a general nature that went to all abhorers of crime. It was no such objection; it was one that
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went to the specific act charged, and to the person against whom it was charged. The act charged was recommending Paine's book. The society had offered a reward for the discovery of the publisher of it. They had done more; they had come to specific resolutions with regard to Mr. Muir himself, which shewed that they considered him as a guilty person. What was the case of Lord Balmerino? Lord Blantyre was asked whether he had said of Lord Balmerino, that he had been a guilty person? Lord Blantyre said he could not swear he had not. Lord Blantyre was not permitted to pass upon the jury; and shall that be permitted now, which was not permitted in 1635?

The two Gentlemen opposite, and his Right Hon. Friend (Mr. Windham), had all mentioned a most extraordinary proposition, That banishment was the generic term, of which transportation was a species, or one of the modes of carrying it into execution. He was particularly astonished at that argument from his Right Hon. Friend (Mr. Windham), who was a scholar, a grammarian, and a philosopher. No system of grammar or philosophy had ever so classed things: The genus here was the lesser, the species was the greater; in as much as banishment was a less aggravated, and transportation a more aggravated punishment. In every system of philosophy, or grammar, the genus was the more comprehensive. The fact was, such an analogy would not do; for though those punishments had one common quality (expulsion from the society), banishment was an expulsion with liberty to go any where; transportation with confinement to a particular place; and pillory and whipping might as well be said to be of one class.

As to the Act of 1696, Mr. Adam said, that the transportation of bankrupts did not affect his argument, for it did not follow, that because bankrupts had been transported, leasing-makers, or excitors of sedition, could be also transported; because the punishment could not be transferred from one crime to another. The Act of the 6th George III. had recognised transportation, but only in cases which had happened, not in cases where it never had been used; and the Bill of Rights, which was extended to Scotland by the Union, made all unusual punishments illegal. But it was contended, that this expounded the term Banishment in the Act of 1703. Mr. Adam denied that conclusion; he said the fair way of expounding the Act of 1703, was to refer to acts *in pari materia*, that is, to the Act of 1609; there banishment was one punishment for leasing-making; and in that act, banishment could not mean transportation, for there was no place to which to transport. Besides,

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Besides, the Act of 1670 gave the fair statutory exposition of the two punishments, by making the distinction between banishment to the plantations, and banishment, simply meaning expulsion. When more was meant than banishment, that is, when transportation was meant, the words *to the plantations* were added.

The Chancellor of the Exchequer had, he observed, attempted to put the construction of the Act of 1703 upon the words *arbitrary punishment*, and therefore inferred, that banishment meant transportation, which was an arbitrary punishment, but he had forgotten the expletive: The Act saying that it shall be an arbitrary punishment, that is, by fine, imprisonment, or banishment; life or limb not to be affected. But banishment was an arbitrary punishment, as well as transportation; and it was much more probable that the arbitrary punishment which was named, and not that which was not named, was the arbitrary punishment meant.

As to the case from the Privy Council, the Lord Advocate would recollect it, for he was Counsel against him in the case of an Appeal being competent in the Court of Justiciary, when he (Mr. Adam) argued its competency, upon the ground of the Privy Council being a superior Court, and having entertained appeals from the Justiciary, and that that Court being abolished, the House of Lords should come in its stead. He had stated cases as low as the Revolution, when he was told by the Noble Lord who presides in the House of Lords, that cases from so odious a tribunal could not be admitted. Mr. Adam said, he hoped if that objection was made when the rights of the subject were to be sustained by authority, it would not be argued that the Privy Council was good authority where it made against the subject. What! was this Privy Council case in 1704 relied on as a contemporaneous exposition of the word Banishment, the party having been transported for *leasing-making*? Whereas the only thing it proved was, that the tribunal exceeded its authority, and disregarded an Act of Parliament. The case stood upon the assertions he had made, and which had not been denied.

There was no case in the Records of Justiciary, Mr. Adam said, where the punishment of transportation had been inflicted. But there were cases where the inferior punishments had been inflicted. The Lord Advocate had produced none; neither had he controverted his other proposition, that there was no instance of sedition charged as *crimen per se*; nor any of sedition being punished with transportation.

Mr. Adam then said, nobody could deny that the cases were merely leasing-making. Indeed, that of Mr. Palmer being so, had not been controverted. Would the mere circumstance of

not laying those crimes upon the statute vary the punishment? Suppose the day after the Act of 1703 passed, an indictment had omitted the statute to avoid the statutory punishment, could the court have sustained such an evasion? And if it would not have done so then, should the lapse of time make any difference in the case?

As to the discretion, he was astonished to hear the Right Hon. Gentleman's (Mr. Pitt's) doctrine; that, because he thought the law clear, it was therefore sound discretion to punish to the extent of the law. Was that the meaning of a discretionary punishment? Did the state of society call for it? Did the comparative state of the law of England justify it? Mr. Adam said, he considered the Right Hon. Gentleman as standing in the double capacity of a Member of Parliament and adviser of the Crown. Did the Hon. Gentleman think, that he acted a wise part in either character, by permitting a sentence to be enforced, which weakened and rendered ineffectual the laws of England, and admitted such unjustifiable severity in those of Scotland; which sanctioned a punishment in one part of the kingdom, living under the same executive and legislative government, that was inconsistent with the mildness and lenity of the law of the other part of the kingdom? Above all, the Right Hon. Gentleman, as an adviser of the Crown, ought to reflect, that one of the principal features of the crime is, having taken measures to promote a Parliamentary Reform; a measure which the Right Hon. Gentleman once approved and promoted, but for which he was now to permit those unfortunate persons to suffer a punishment the most afflicting and humiliating.

The Chancellor of the Exchequer rose to explain: He denied that Messrs. Muir and Palmer had only maintained those doctrines concerning Parliamentary Representation which he himself had formerly advanced. It was notorious that Mr. Muir was not in the indictment charged with exciting a Reform in Parliament, but with dispersing and recommending Paine's pamphlet, and other seditious writings; and as to Mr. Palmer, he was not at all charged with endeavouring to promote a Parliamentary Reform, but with vilifying this country in comparison of a country with which we were at war, by saying that the war was just on the part of the enemy, and consequently unjust on our part.

Mr. Grey said, that he would not have taken up the time of the House at that late hour, had not the strange doctrines advanced that night compelled him to rise. In consequence of the Chancellor of the Exchequer having asserted, that the Judges of the Court of Justiciary in Scotland, were warranted in having passed such severe sentences on Messrs. Muir and Palmer,

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Palmer, he took occasion to state what the offences were of which these gentlemen had been accused. Mr. Muir, he observed, so far from recommending Mr. Paine's pamphlet, had said that it went too far; and the war with France had not commenced till six months after the circumstances upon which the prosecution was founded. Let it, said Mr. Grey, be remembered, that the Right Hon. Gentleman had acted on their principles at the meeting at the Thatched House in 1782; that the doctrines promulged from thence by Mr. Pitt and the Duke of Richmond were of the same tendency and nature with those of the unfortunate gentlemen; nay, that the Duke of Richmond had gone greater lengths than either of them, in recommending an Universal Suffrage; and telling the people, that they must depend on their own exertions in procuring a Parliamentary Reform; that the efforts of the Noble Duke, and the Chancellor of the Exchequer, in 1782, on that subject, might be regarded as the cause of the exertions of Messrs. Muir and Palmer in Scotland. But what was the result? The Noble Duke and Mr. Pitt sat in his Majesty's Cabinet, and gave their sanction for carrying into execution the severe sentences passed on Mr. Palmer and Mr. Muir, that they should be banished for fourteen years, and doomed to live with the outcasts of society.

Mr. Grey concluded by declaring, that he entirely agreed with his Right Hon. Friend Mr. Fox, *That if the criminal laws of Scotland were extended to England, then it would no longer be the country where a freeman could live.*

The House divided—

For the Motion 32—Against it 171—Majority 139.*
Adjourned.

* List of the Minority on the Motion of Mr. Adam, on Monday,
March 10, 1794.

The Rt. H. Charles J. Fox
Sam. Whitbread, Esq.
Major Maitland
Lord John Townshend
Lord William Russell
Hon. St. Andrew St. John
Lord Robert Spencer
General Fitzpatrick
Hon. T. Erskine
William Adam, Esq.
Dudley North, Esq.
Thomas Thompson, Esq.
Henry Howard, Esq.
Benj. Vaughan, Esq.
Colonel Macleod

Colonel Tarleton
M. A. Taylor, Esq.
Philip Francis, Esq.
James Walwyn, Esq.
William Plumer, Esq.
William Smith, Esq.
James Hare, Esq.
George Byng, Esq.
Earl Wycombe
Hon. Edward Bouverie
Hon. W. H. Bouverie
Sir Edward Winnington, Bart.
R. P. Knight, Esq.
John Harrison, Esq.
John Courtenay, Esq.

TELLERS.

R. B. Sheridan, Esq.

Charles Grey, Esq.

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HOUSE

HOUSE OF LORDS.

WEDNESDAY, *March 12.*

Read a third time, and passed, the Buckingham Canal Bill.

Ordered the hearing of Mr. Bridges, on his claim to the Barony of Chandos, to be postponed till the 10th of April.

Brought up from the Commons, Zobell's Naturalization and an Inclosure Bill, which were read a first time.

HOUSE OF COMMONS.

WEDNESDAY, *March 12.*

The Penny Post Bill, Jersey Post Bill, Shelton Inclosure Bill, Zobell's Naturalization Bill, were read a third time, and passed.

Petitions from Swansea, in favour of Swansea Canal, and from the Durham Woolcombers, were presented. To lie on the Table.

The Resolutions of the Committee on Scotch Spirits were reported, agreed to, and a Bill ordered.

The Leeds and Liverpool Canal Extension Petition was presented, and Instructions to make Provision in the Bill.

On the Report of the Rochdale Canal Bill, a Clause was proposed, on which the House divided,

For the Clause 56.—Against it 42.

In the Committee on the Attorney's Tax Bill, Mr. Rose introduced a Clause to prevent Attornies on the Welch Circuit from practising here, unless they paid the new duty.

HOUSE OF LORDS.

THURSDAY, *March 13.*

The Bank of Scotland Bill was ordered to a Committee on Monday the 17th.

SLAVE TRADE.

The House resolved itself into a Committee on the Slave Trade, when Mr. Gilbert Franklyn was called to the bar, and underwent an examination till half past five o'clock, when the further proceeding in this business was adjourned till Tuesday the 8th of April.

A Petition was presented by the proprietors of the Dudley Canal Bill, praying to be heard by Counsel against the intended Extension Bill now pending in the House; which was ordered to lie on the Table.

Adjourned.

HOUSE

HOUSE OF COMMONS.

THURSDAY, *March 13.*

Presented an account of vessels cleared out for Africa, of Pearl Ashes, of Paper Duties. Also Petitions in favour of Swansea Canal, against Newbury Canal, and Hull Docks. Ordered to lie on the Table.

The Woolcombers' Petitions, being reported, were ordered to be printed.

Read a third time, and passed, the Kingston Road Bill.

Bills ordered—on expiring Laws, Ayr Harbour, and two Scotch Petitions.

To be engrossed—North Allerton Inclosure and Attorney's Duty Bills.

MILITIA BILL.

The Committee on this Bill added various Clauses, and the Report was ordered to be received on Monday the 17th.

EAU BRINK DRAINAGE BILL.

The House went further into the consideration of this Bill, and Counsel were called in and heard thereon.

Adjourned.

HOUSE OF COMMONS.

FRIDAY, *March 14.*

The Brick Duty Bill was reported, and ordered to be engrossed.

The Rochdale Canal Bill was read a third time, and passed.

Accounts of Lynn Duties and Pearl Ashes were presented, and ordered to lie on the Table.

Bridgewater Bridge and Staffordshire Hall Petitions were reported, and Bills ordered.

A Petition was presented from the Woolcombers of Durham, and ordered to lie on the Table.

A Petition was presented from the Coal-owners against the Leeds and Liverpool Canal Bill, and referred to the Committee, and to be supported by Counsel.

On the report of the Rochdale Canal Bill, a clause was moved for, in order, as it was stated, to destroy the Monopoly of the Duke of Bridgewater. A division upon this took place, when the clause was thrown out :

For it 58—Against it 85.

Mr. Adam gave notice, that he should, on a future day, renew the discussion of a subject which had occupied in some degree the attention of Parliament already; he meant that of the

the criminal law of Scotland. His object was to bring that consideration forward in a form that had not been yet before the House. He said, he should move for leave to bring in a bill for assimilating the criminal law of Scotland to the law of England; and that he should make that motion on Tuesday the 25th.

SLAVE TRADE.

On reading the order of the day, for the recommitment of the report of the Committee of the whole House, on the Bill for preventing the Supply of Foreign Territories with Slaves by British ships, or by British subjects,

Lord Sheffield said, as he disapproved the whole of the Bill, he should object to the recommitment; and neither the abundance of declamation which he had heard in other stages of the business, nor the uncandid suggestions, nor the denunciations against those who presumed to differ in opinion from the movers of the question, should prevent him from saying, that of all the attempts at the Abolition of the Slave Trade, this was the most senseless.—He said the most senseless, because it might do great mischief, but could not possibly attain its object. The presumed motive of the measure was humanity; the object of the Bill was to prevent the carriage of Slaves to the foreign West Indies. He said it must be obvious to every man of common sense (within which description he did not mean to include the enthusiast who is led by his feelings and not by reason), that the purpose of humanity would be answered infinitely better by conveying negroes in British shipping, under good and proper regulations, than in the promiscuous shipping of Europe, under no regulation at all. It was no less obvious that British law can only change the flag under which negroes shall be conveyed, but that not a single Slave less will be carried to the West Indies. A British act indeed might turn the trade into another channel, and deprive this country of great advantages in respect to navigation, and of much profit; but notwithstanding the extravagant and despotic clauses which were to be found towards the end of the Bill, which, from their interference with the management of property, would only revolt mankind, and would never be enforced, he could not help flattering himself that British merchants would find the means of fulfilling their contracts with the Spaniards, the Danes, and the Dutch, especially with the former, by which many dollars would be brought into our islands, and the advantageous trade we have with the Spanish West Indies would be preserved.—Great Britain indeed will lose the benefit of sitting out shipping, a benefit of which she

she should be most jealous, and instead of carrying many manufactures from this country, every article will be supplied at the foreign port where the shipping is equipped, to the great prejudice of this nation.—He observed, unless our traders had an opportunity of disposing of a redundancy, that our plantations could not be sure of a constant and steady supply. He said, if the Bill should pass into a law, it would disgust the loyal well-disposed planters, the merchants, and every rational man who really understood the subject; that nothing could be more impolitic nor unjust than the conduct which was held towards the West Indians. He wished the Hon. Mover of the Bill would in these feverish times spare his country; that he would spare the consistency of his friends, whom he induces to promote one of the greatest revolutions in respect to property and commerce which can be conceived, whilst he thinks it necessary to declare against the slightest innovation or change in other matters, even where the propriety of that change is not doubtful. He concluded by saying, it would be as unpleasant to him to repeat, as for the House to hear, the arguments which have been so often urged on this subject. He should therefore content himself with moving, that the Speaker do not leave the chair.

Mr. Wilberforce expressed some surprise at the opposition of the Noble Lord in the present stage of the Bill, and lamented that the Noble Lord had not favoured the House with his attendance and remarks earlier, during the time that the Bill had been in the House. If he had done so, he would have known that the recommitment of this Bill had been agreed to as a matter of course, and that all arguments on the principles of the Bill had been also agreed to be postponed to the third reading of it. If the Noble Lord, however, had delayed for a long time to deliver his sentiments upon it, he seemed desirous of atoning for that defect, by the great degree of violence which distinguished his opposition. To the epithet of *enthusiast*, with which he had been honoured by the Noble Lord, or to any appellation of a similar kind, he certainly was resolved to pay no attention. Whatever degree of regard he was disposed to allow to the understanding of the Noble Lord, yet, if he paid any of the same effect to the decisions of the House, and considered that the abolition of this trade had been repeatedly voted for by a decided majority, the conclusion which the Noble Lord must form with regard to his own intellects could not be of the most favourable nature. He then justified himself as to his motives for pressing this subject forward, and disclaimed all idea of endangering the commercial interests of this country, at this or any other time; on the contrary,

contrary, he was convinced that the present Bill would add to the promotion of our commercial and other interests.

Lord Sheffield explained, and said, he had been present on the former debate in the Committee on this Bill, and that the occasion why he took no share in opposing any of the provisions of the Bill was, that his objection was to the whole of the principle, and therefore it was unnecessary for him to enter on the detail of it.

Mr. Dent declared, that he would vote with the Noble Lord (*Lord Sheffield*) against the recommitment.

Sir William Yonge said, that however inimical he might be considered to be with respect to the principles of the Bill, yet, from what had passed, he thought himself pledged to support the recommitment.

Mr. Fox observed, that the Noble Lord who had just spoken, had stated his hope that the Bill, if passed into a law, would be disobeyed: Now whether in these feverish times, as he termed them, it was a fit doctrine to hold out to a class of people that they should disobey an Act of Parliament, he should leave to his Lordship's consideration. The Noble Lord had also said that the Act would be wholly nugatory. *Mr. Fox* hoped not; but even if he was convinced it would, he still would vote for it; because he should think it something gained to the cause of justice and humanity, if the Bill should pass, for it would convey to the world at large, by an authentic document, the sentiments of the Parliament of Great Britain on this abominable traffic. He did not however think the Bill to be nugatory; and although it did not proceed so far as he could wish towards the suppression of the Slave Trade, yet he thought it contained for that purpose provision of considerable importance.

The House divided,

<i>For the question</i>	89
<i>Against it</i>	47

<i>Majority for the recommitment</i>	42
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The House then resolved itself into a Committee, *Mr. Elliott* in the chair, when several clauses were proposed and agreed to. The Speaker having resumed the chair,

Mr. Lechmere rose, and reminded the House that he had last year given notice of his intentions to submit certain regulations to their judgment in preference to a total abolition. Having briefly stated that he had learnt on a consultation with some of his friends, that the British Parliament could not interfere in the internal regulations of the West India islands, and finding he could not then give his sentiments at large on the general question of the total abolition of the Slave Trade, he

he could only say that this Bill appeared to him to be nugatory, as to the good proposed to be done by it, and oppressive to many persons, in as much as it prevented their disposing of their property in the most advantageous manner.

Mr. Serjeant Adair objected to one of the clauses proposed in the Committee, which ordained, "that all persons who should make a wilful declaration of a falsehood, were to be punished as if guilty of a misdemeanour." The provision, he said, would be nugatory; because it would be in the power of the court, who should try such persons, to fine them only sixpence. He would therefore propose as an amendment, that, besides a fine, the punishment of imprisonment, not exceeding twelve, nor less than three months, should be inflicted; which amendment was unanimously agreed to. The amendments having been all read and agreed to, the Bill was ordered to be ingrossed, and to be read a third time on Monday if then ingrossed.

HESSIAN TROOPS.

Mr. Grey called the attention of the House to the subject of which he had given notice, the question of the Prerogative of the Crown in respect to landing Foreign Troops in this country without the consent of Parliament. In what he had to submit, he said, he had the satisfaction to assure the House, that it would not be necessary for him to trouble them at any considerable length. If, on a former day, when he had the honour of moving a resolution relative to the introduction of foreign troops, it was justly a reproach to him that he had not afforded any new light on the subject, his detaining the House for a long time on what he had at the present time to urge, would be a still greater reproach to him, because he confessed he had nothing to advance that was more applicable to the question which he intended to submit to the sense of the House that night, than what he had the honour of submitting when he moved the former resolution. He must say, however, nothing passed on that night that made it necessary, in point of consistency, for those who opposed his motion then, to oppose the motion with which he should have the honour of concluding. Although he confessed he should be able to adduce but very few arguments upon this question, which were not applicable to the former one, yet the motion he should make was of a different nature from that which he moved on a former day. The point which he had in view on a former debate, appeared to him so clearly founded on constitutional principles, and so well provided for by the laws of this country, that he did not see how it could be opposed on its own

grounds. So little, indeed, was the proposition he then contended for denied, that the objections taken to this motion, were rather objections to the inexpediency of the measure he proposed, than any distinct denial of those rights upon which his proposition was grounded.

Only four members in that House had questioned the proposition, "That the King had no right, either in time of peace, or in time of war, to land foreign troops in this country without the consent of Parliament." Of these four, one Gentleman opposed him, although he avowed himself unprepared to argue and decide upon the question of right. A second naturally supported those new friends, to whom he had, in common with others, so lately attached himself. A third had maintained the prerogative of the Crown to introduce foreign troops, without, however, going the length of supporting that prerogative in opposition to the declared sentiments of the Parliament; and even this opinion was received with murmurs. A fourth had, indeed, gone so far as to maintain, that the King had a right, at his own will and discretion, independent of the consent of Parliament, to introduce into this country any number of foreign troops; that his Majesty would be justified in acting upon that prerogative in opposition to, and in contradiction of the concurrence of the House of Commons: On the utterance of such sentiments a murmur pervaded the House.

When the same opinion, with a little shade of difference, came from the minister, he was sorry to say the same mark of disapprobation had not followed. If the minister had done the which he said he was ready to do, and what he ought to have done, and had ventured to come to a direct question upon that subject, he did not believe that the minister could have found the majority so implicit in their attachment to his opinion as he found them on some occasions. If the motion with which he should conclude that night, should only compel the minister to retract, or to qualify the opinion which he gave the other night, some good might arise out of it. The House well knew the minister's powers, his eloquence, and his capability of either enlightening what was obscure, or confounding what was clear, as his inclinations or his interests might lead him; and that where an opinion, though expressed, was to remain in doubt, a single monosyllable, an accommodating *if*, could so well be introduced, as to qualify that opinion to whatever point it afterwards might be found convenient to direct and apply it. But, on the occasion alluded to, the minister's opinion had been given in too affirmative and unqualified a manner, to admit of the display of that dexterity. The
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proposition, as broadly stated by him (Mr. Grey said), was, "That the King *had not*, by the principles of the constitution of this country, or by the law of the land, a right to bring into this country, in time of war or peace, any foreign troops whatever, without the consent of Parliament." The minister declared he was ready to meet that proposition with a direct negative; and therefore he must maintain the contrary proposition, *viz.* "That the King *had*, without the concurrence of Parliament first had and obtained, *a right*, according to the principles and practice of the constitution of England, and the law of the land, to introduce foreign troops, to any number, whenever he pleased." Such opinions as these, coming from such a quarter, and delivered in that House, made it absolutely necessary for him to come forward, and offer some measure that might prevent so dangerous a precedent, as that of maintaining and establishing a most unconstitutional prerogative in the Crown must establish; a precedent which might in subsequent times prove fatal to the liberties of the country. As long as he had the honour of a seat in that House, he would never lose an opportunity of opposing so pernicious a doctrine; and although it might not be attended by complete success at once, yet, by keeping the point up, and calling the attention of Parliament to it from time to time, at last they might receive a Parliamentary sanction in favour of the Public, which no minister would dare hereafter to question or to combat.

When the question was debated upon a former night, it was treated by most of its opponents as an abstract question. One Honourable Member opposed it, on the ground of its being dangerous to agitate such a proposition under the present circumstances. Another agreeing with him in the truth of his proposition, objected however to the danger of the House coming to a contrary conclusion. It was upon that principle, and with that view, that a Learned Gentleman (Mr. Serjeant Adair) had moved the *previous question* on that occasion. He did not wish to renew the discussion of what might be called an abstract proposition for its own sake, but when the denial of that proposition led to principles that were in their nature hostile to freedom, he felt no difficulty in maintaining an abstract proposition, and he saw no reason why the House should shun the discussion of it.—The question here was, whether, in the landing of the Hessian troops, there was not a practical breach of a clear established abstract proposition? And this he maintained to be the fact. It came also a little inconsistently from the minister, to object to the discussion of an abstract proposition which he had created by his own doctrine, and

when he too had himself formed several important resolutions on a well-known occasion, and that merely in answer to the opinion of an individual (Mr. Fox's declaration respecting the Prince of Wales's right to the throne under certain circumstances, on the Regency). A third objection was, that the declaration he proposed was not called for by any necessity which could warrant it. He was ready to admit, that this objection was made before the sentiments of the Chancellor of the Exchequer were divulged; and he would therefore wish to know how they could avoid coming to some conclusion on the subject, when they had heard the present infringement of the law supported by opinions coming from such high authority. Upon the present occasion, he said, he did not mean to bring forward any abstract question. But he thought the landing of the Hessian troops, however it might be justified by necessity, was so clearly against law, that the House of Commons could not do better than make as speedy an atonement as possible to the people for the breach of the constitution, by passing an act of indemnity, which, while it secured such as had counselled the act, bore testimony to those principles so essential to the preservation of our liberties. That the measure to which he alluded was illegal, he had no doubt; he understood it to be pretty generally admitted; and therefore he should avoid many of the arguments he had before urged himself, and had heard from others upon that subject. It was objected to his proposition, that it could not be founded on any positive law, because no positive law could exist in analogy, or context of different acts and periods. But looking, as he did, at the general tenour of the Bill of Rights, and the liberal construction which ought to be put upon it; and then from the positive Acts of Parliament, which followed that Bill of Rights; but emphatically from the Message of King William, and the Answer of the House of Commons to that Message, by which they peremptorily refused to allow his Majesty to keep his Dutch Guards even in time of peace: He would, from these authorities, maintain, that he was justified in asserting that, according to all these authorities, the King had no right, either by law, or the practice of the constitution, to bring foreign troops into this country at any time, without the consent of Parliament. But it was said that this occurred only in a time of peace, and therefore could not apply to the general principles. This was not the way he had put it; but that even in a period of great public danger and alarm, the Parliament had refused to admit the residence of foreign troops within the realm, as utterly contrary to the first principles and genuine spirit of our constitution. This point was supported also by the Act
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of Settlement, which said that no foreigner could, under any circumstance whatever, hold any office of civil or military trust in this country; and by the Mutiny Bill, by which it appeared, that such foreign troops, when in this country, could not by any legal means whatever be under any military law. Until, therefore, he heard something better on the other side of the question than he had yet heard, he should continue to assert, that the landing of these troops was against the law, and the practice of the constitution of this country.

So clear was the point as to the employment of foreigners in any office of civil or military trust, that the Act of the first of George the First, which was an amendment of the Act of Settlement, enacted, That in every Naturalization Bill, it should be expressly enacted, that the person naturalized should not be capable of holding any office of civil or military trust. This being the case, he wished to know what was the legal situation of all the officers who commanded these Hessians in this country? Was not theirs an office of military trust? He expected therefore to hear some better reasons than he had yet heard in support of the doctrine of the constitutional right of the King to bring foreign troops into this country. He knew that it was against the practice as well as the principles of our free constitution. He might, indeed, be told of some precedents to the contrary. But if there were any such precedents, he was prepared to say they were insignificant, and not to be relied on as any sort of authorities. He would go further, and say, that if there had been an uninterrupted series of precedents, from the Revolution down to the present hour, they were nothing, if they were contrary to law; for no number of precedents could sanction illegality; and that which was once proved to be unjust, must for ever remain so, notwithstanding the number of instances in which it was repeated. In point of history, he maintained, that the precedents were in favour of his proposition; and he challenged any lawyer in that House to shew the contrary.

Let him for a moment ask, what was the fact to which he referred? A foreign force had actually been introduced into the country. Was this, or was it not, a violation of the law of the land? If it was a violation, and such a one as existing circumstances rendered a necessary one, ought not that House to pass an Act of Indemnity in favour of the advisers of the measure; and not, by their silence, run the risk of establishing a precedent so dangerous in its principle, so ruinous in its consequences? Some Gentlemen had the ingenuity of discovering, that the introduction of foreign troops, without the consent of Parliament, was, generally speaking, illegal; yet, that
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it was not so in the present instance, inasmuch as in the present instance it was considered merely as a rendezvous. He confessed his organs were too blunt to be capable of making those nice distinctions. He only knew that the troops were here, and that they were so contrary to law. Mr. Grey said, he must repeat what he had said on a former occasion, that it was not from any distrust in his Majesty, or that he suspected his Majesty's designs, that occasioned his insisting on this constitutional point. He had no such suspicion or distrust, but he wanted to guard against the establishment of a dangerous doctrine, and against the establishment of a dangerous precedent, such as the present might be, if not done away by the conduct of the House of Commons. Whatever confidence ministers might have in the propriety of their having acted from necessity, and therefore that they needed no indemnity for what they did, the House of Commons ought to take care of the principles of the constitution, and not pass over an illegal act to gratify the pride of ministers, who might think themselves too secure to need any indemnity whatsoever: That was a sort of pride in which the House should not indulge any persons, when such indulgence might lead to the most dangerous consequences.

He wished the House to look at the possible effect of such a measure as this. If foreign troops were to be introduced into the kingdom for the purpose of interference in any domestic broil (an event he earnestly deprecated), the case would be manifest, and speak for itself. That the King had the prerogative of carrying on war, and conducting all the military operations of the country, he did not mean to dispute, the particular details of which it would be imprudent, perhaps dangerous, to reveal. If then he were possessed of this right of introducing foreign troops, what dangerous project might not be concealed under that pretext? As Elector of Hanover he might introduce a number of his electoral troops; he had besides, as subsidies for Germany, various petty Princes, and States, which were too numerous and uncouth to name in an English House of Commons. From these he might introduce foreign troops. He was engaged with the greatest, and almost all the powers of Europe, in a war against France; he might consult with all these, and it might be agreed that troops from Hanover, from Austria, from Prussia, and Russia, should be brought to this country, to any number; the whole was to be legal, if a gracious message came from the King that such a thing had been done! Where was, then, the security of this country for its freedom, when the King could introduce such a foreign force as would terminate all disputes about their rights? The minister could talk of prerogative, and the on-
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trol over it by Parliament; but he would ask him, what would become of this control if such a circumstance as he had described should ever take place? The constitution was founded on eternal principles, to the observance of which it must owe its preservation: Of these he considered it as an essential one, that the Crown had no right to introduce foreign troops without the consent of Parliament; and he dared even the new converts and confidants of the minister to deny his position. To the evil which he stated, and of which he complained, what was the remedy he proposed? A Bill of Indemnity. Did this hurt the pride of the minister, or was he to be deemed incapable of having erred? Would any Gentleman state the inconvenience attendant on such a measure? If they wilfully refused his proposition, what remained on the other side? The law violated, and a precedent established, pregnant with the most mischievous consequences. Let the House reflect on this, and let them not be too confident in the professions of any man: He was sure, if experience was the rule to guide us, we had no reason to rely on the advice which the present minister might give to the Throne, for he had already advised it to act in defiance of the declared sense of the House of Commons. In short, he thought the House, in all messages from the Throne, should remember the answer of Sir Edward Coke (afterwards Lord Coke) to King Charles the First, who, in a message to the House of Commons, intreated them not to proceed in their Petition of Right, assuring them, that he meant nothing hostile to the liberties of the people, that he would preserve them inviolate, &c. Mr. Grey read the answer of Sir Edward Coke, the substance of which was, that the messages of the King were very gracious; but they must look at the law of the realm. Not that they distrusted the King, for he sent no messages but of love to them, but that with whatever sentiments of personal respect they should look to his Majesty, they could only attend to his messages in a Parliamentary way. Mr. Grey concluded with saying, that, in order that the proceedings of this night might go down to posterity to be judged of, he should desire that extracts of the Bill of Rights, the Mutiny Bill, and the relative Acts of Parliament, might be read; which being done, he moved, "That leave be given to bring in a Bill for indemnifying all persons who shall have advised his Majesty to order the landing of any foreign troops that may now be in this country, &c."

Mr. Francis said, that he rose to second the motion in a very few words, but that they should be the strongest which his knowledge of the language could suggest to him: That the present question went directly to the vitals of the constitution,

tution, and involved the preservation or destruction of the liberty of the kingdom: That, notwithstanding any thing that might have been said to the contrary by some persons on a former occasion, he presumed that, on that day, there would be no difference of opinion on this proposition, namely, that "for the King to introduce a foreign army *against* the declared opinion, and in contradiction to the advice of Parliament, would be illegal." He was ready to admit, that, in ordinary cases, and supposing the Parliament to act honestly, and to mean fairly to their country, the *previous consent* of Parliament might be a sufficient justification of ministry for bringing in a foreign force, where the necessity was evident, or the expediency unquestionable. In his opinion, all these conditions were necessary to make the act legal, *viz.* the expediency, the necessity, and the consent of an *honest* Parliament. Otherwise it might happen that the consent might be obtained, the measure might be sanctioned by the vote of a corrupt House of Commons, and the nation be ruined by it. Looking forward to future times, to Kings and Parliaments of a totally different character from the present, when, perhaps, a King with arbitrary desires, and encouraged by a profligate minister, might have a venal House of Commons at his command, a conjuncture might exist in which a King of this country, *with* the consent of Parliament, might bring such a foreign force into the kingdom, as might be sufficient to overpower and enslave the people. If such an attempt should ever be made, it would, in his opinion, constitute that case, in which resistance would not only be justifiable, but indispensably necessary. The consent of a treacherous or corrupt Parliament, instead of sanctifying the measure, ought to be a signal to the nation to take up arms against it. If they did not, they must submit to the yoke, and pay a foreign army for enslaving them. Events of this nature, he trusted, were far remote; but still they were within the limits of possibility, and ought to be provided against. One arbitrary step always led to another. At any rate, he hoped that the wisdom of the House, by its decision that night, would put an end to all doubt and apprehension on the subject, and settle the question for ever.

Mr. Grenville said, he was extremely happy that he was not called upon to define exactly in what situation the people would or would not be justified in resisting their governors; but he conceived the question then before the House was, whether or not the conduct of his Majesty's ministers, so far as related to the debarkation of the Hessian troops in this country, was or was not contrary to the law and constitution of this kingdom? The principles upon which the present motion must be

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supported, had been argued at length upon the night when the subject was last brought under the consideration of the House; therefore the opinions of Gentlemen must in some degree be made up upon it; and those who, upon the former debate, thought the conduct of ministers improper, must of course vote for the Bill; those who then defended ministers upon the legality, or upon the expediency, of the measure, must on their parts disapprove of the intended Bill.

Many of those Gentlemen who, upon the last night of discussing the subject, gave a silent vote in favour of ministry, had been represented as admitting the illegality, but contending for the expediency of the measure. He wished to declare, that he was not one of those; because, if the House had come to a distinct decision that night upon this subject, his vote would have been in favour of ministers, as well upon the legality as upon the expediency of the measure; and if the previous question had not been moved, he should have given his distinct negative to the motion.

The present was undoubtedly one of the most grave and important questions that could possibly claim the attention of Parliament, and, therefore, he had felt himself bound to look with great minuteness into the law upon the subject; because, after what he had heard, he expected to have been able to find, in some part of our law, a clear, distinct *dictum* upon the subject. With every possible attention which he could give the question, he was not able to find any one declaration of law which could be said fairly to apply to the present case; and he thought Gentlemen did not act with candour, when they treated every attempt to shew the inapplicability of the law to the present case with contempt and ridicule, because the distinction was, in his opinion, extremely obvious.

He begged permission to state briefly the grounds why, in point of law, he thought the conduct of ministers was justifiable. The Bill of Rights had been much relied upon by those who agreed with the Mover of the proposed Bill of Indemnity: For his part, he admired the Bill of Rights as much as any man; but the declarations in that Bill did not reach the present case; for, would any man contend that it came within these words, "that the King shall not keep a standing army in this country in time of peace without the consent of Parliament?" In time of peace! Was the present a time of peace? Most undoubtedly not; and therefore the words in that Bill could not be used as an authority upon the present occasion.

The next point upon which Gentlemen rested much of their argument, was the Act of Settlement. Was there in

that House a single Gentleman, who, upon fairly reading that Act, would venture to say, that he really thought its regulations were framed with a view to a case any thing like the present? He, for one, was ready to answer, that the Act of Settlement was by no means a certain authority against this prerogative. By considering the spirit of the times when the Act of Settlement was introduced, we might collect the intention of the legislators who passed it. A foreign family was recently admitted to the throne; and it was feared that, from natural predilections, foreigners would be brought into civil and military offices of trust in this country. This was the reason of the prohibition which the Act of Settlement contained: But to prevent all possibility of doubt, he would look to the opinion of those who themselves framed the Act of Settlement. That Act was passed in the year 1700. In 1714, when 6000 Dutch troops were introduced into the country, the expediency of their introduction was debated, and with much warmth, by Mr. Walpole, Mr. Shippen, Mr. Pulteney, and other great men; but during the whole of the discussion, not one expression fell from any one of them, calling in question the legality of the introduction of the Dutch troops. If the Act of Settlement had rendered it illegal, could it be supposed, that those who themselves framed the Bill, would not have taken advantage of it, and have pressed it as their main argument against their adversaries? But nothing of that kind was asserted: Therefore, without much presumption, he might continue to say that the Act of Settlement did not decide the question.

Gentlemen had also relied upon the gift of George II. as an authority in their favour. He felt himself as much at a loss to know upon what principle they argued upon this Act, as he was with respect to the Act of Settlement; because he could not conceive how an Act, the object of which was merely to regulate the mode of quartering and billeting soldiers, could be made to bear upon the present question, which was, Whether or not it was legal, in time of war, to introduce foreign troops into the country without the previous assent of Parliament? If, then, there was no positive law which in direct terms declared such a circumstance to be illegal, he wished the House to consider, whether the practice of Parliament was a more decisive authority in favour of Gentlemen on the other side? A resolution of the House of Commons had been relied upon, which had been passed in the year 1645, and which declared, that any man, who shall advise the King to introduce foreign troops into the country without the assent of Parliament, is an enemy to his country, and a traitor.

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When Gentlemen called to their recollection the circumstances which occurred at the period when this resolution was passed, they would not, he thought, be inclined to pay much attention to it. But, even taking it for decisive authority, what did it prove? It proved that the then House of Commons did not consider that to be the law of the land, because, if they did, there would have been no necessity for passing such a resolution.

The precedent of 1715, he had alluded to before, in speaking of the Act of Settlement: He should therefore only observe, that upon that occasion 6000 Dutch troops were landed in this country, in consequence of a treaty with the States General; and the conduct of the ministers of that day had never been called in question as illegal.

The next case which occurred was that of 1756. Upon that occasion the King sent a message to Parliament, not to advise with them, not to ask their approbation, but to inform them that he had sent for a body of foreign troops, who were then upon their way to the kingdom.

Then came the cases of 1745 and 1784. To the circumstances of the latter case he had heard no answer offered, except the general one, that it proved too much. Whether it proved too much or not, he could not tell; but of this he was sure, that, with a variety of other cases, it proved, that in no one instance, since the commencement of the present century, in which foreign troops had been introduced into the country in time of war, had a Bill of Indemnity ever been thought necessary.

Having thus examined into the strict letter of the law, and the general current of practice, upon this point, he would, with the permission of the House, say a few words upon what he conceived to be the spirit of the constitution on the subject. When, in bad and tyrannical times, it was asserted, that the King's prerogative was paramount to all law, and wholly independent of Parliament, then, most undoubtedly, it was the duty of Parliament to control and diminish as much as possible a prerogative so inimical to the liberty of the people; but since then, other maxims of a more liberal nature had been introduced, and the prerogative of the King was made reconcilable to the liberty of the subject. There was not one of the prerogatives of the Crown which was not under the control of Parliament, by means of the responsibility of ministers; and therefore it was, that he did not feel that extreme jealousy of the power of the Crown which some Gentlemen professed.

The King had assuredly the power of dissolving Parliament ; of making peace and war ; but this prerogative, as well as every other one that the King possessed, was subject to the examination of Parliament. If ministers betrayed their country, they were liable to be punished. What prerogative was more important than that of convening and dissolving the House of Commons ? Yet it could not be exercised improperly without its being competent to the House to censure and punish his Majesty's advisers: He would wish to ask the House, whether they thought it more dangerous to consider this act of landing the troops as an exertion of the prerogative for which the ministers were answerable, or to consider it as illegal, for which it would be necessary to pass an Act of Indemnity ? He thought the latter the most dangerous and the least efficacious measure, and of course should prefer the former. He would wish to ask Gentlemen, whether, if an invasion from the French was apprehended, and the regular troops of this country were employed abroad, and suppose at the same time there happened to be 15,000 of our allies at Ostend, would or would not the minister be justified in sending for them ? Most undoubtedly he would. Nay, he would go farther, and say, that if the minister did not send for them, he would deserve to be impeached. The opinion of the Hon. Gentleman was, he thought, contrary to the letter of the law, the practice of Parliament, and the spirit of the constitution. If the Hon. Gentleman's motion was agreed to, and the case to which he had just alluded should happen, would the Hon. Gentleman act as manager in an impeachment of the minister for not doing that which he had declared distinctly to be illegal ? Upon these grounds he should give his most decided negative to the motion.

Mr. Serjeant Adair said, that from the situation in which he stood, and from the doctrines he had advanced on a former night, he felt himself particularly called upon to declare his sentiments. He was not under the smallest embarrassment, from the vote he had before given, from saying what side he should espouse. Upon the present question he felt no difficulty whatever in deciding : The law upon this subject was too clear to admit of any doubts. Considering this as a question which in its nature involved one of the most important branches of constitutional liberty, he should feel himself unworthy the character of a Member of Parliament, and a representative of the people, he should think himself a disgrace to the profession to which he had the honour to belong, if he was not prepared to stand forth in defence of the constitution of the country. When this subject was discussed upon a former

mer night, he had declared to the House, that if the real question was brought in issue, he should vote for the motion of the Hon. Gentleman (Mr. Grey); but, not thinking it necessary to come to a decision upon the subject, on that occasion he had moved the previous question; at the same time determining to vote for the motion, if he should be compelled to give a vote one way or other upon it: But, upon the present occasion, he was obliged to give a distinct opinion; and he would therefore request the indulgence of the House while he stated, as concisely as possible, the grounds upon which that opinion was formed.

That, by the common law of the kingdom, no such authority was vested in the Crown, he trusted he should be able to convince the House; that therefore, to contend that such prerogative existed, and deduce an argument in defence and support of that position, from the silence of the Bill of Rights on the subject, was an argument nugatory and futile; and also, that the introduction of foreign troops into the kingdom, was expressed in the Act of Settlement to be illegal. If it should once be determined that the King had this prerogative, of introducing whatever number of foreign troops he pleased, independent of Parliament, all the checks which the constitution had so wisely and so cautiously imposed upon his other prerogatives would be but of little avail. The common law of this country had, in a very distinct manner, provided, that it formed no part of the prerogative of the Crown to employ either native or foreign troops without the consent of Parliament; and that common law had been recognised and enforced by several statutes. At no period of the English history have the monarchs of England had the prerogative of calling out even the native troops of this country without the consent of Parliament.

During the times of the feudal tenures in this country, the military force, if such it could with propriety be called, consisted entirely of the tenants of the soil, who were bound by their tenures to defend their lords; which force of the country was not calculated for the prosecution of foreign wars, but for internal defence: This kind of force existed, in some degree, amongst our Saxon ancestors; and the monarchs of those days, he contended, did not levy troops merely as kings, but as the territorial lords of the country, who, in cases of invasion, or other public necessity, called forth their feudal tenants to defend the country, as they were bound to do by the nature of the tenures by which they held their lands. That at common law there existed no right in the Crown to embody any armed force within the kingdom, was clear from the first establishment

blishment of the militia, in the reign of Charles II. In the reign of that monarch the greater part of the feudal tenures were abolished, and the system of national defence, which was founded upon it, of course fell to the ground; Parliament therefore were obliged to substitute another plan in its stead: With this view they established a regular national militia, which was the origin of that excellent constitutional force for internal defence of the kingdom existing at the present day; and they did it because they knew that the King, by his prerogative, had not the power of providing any means of internal defence. From that time to the present, a system had been gaining ground of having a regular body of forces in the nature of a standing army, which the altered situation of this country, and the general politics of Europe, had in some degree rendered necessary. But that army must be annually voted by Parliament, and a Mutiny Bill is passed every year for its regulation. This was the law of England respecting the prerogative of the Crown relative to the forces; a point in which Parliament have always been laudably anxious; and he challenged any Gentleman in the House to shew him the time when the prerogative of the Crown was different from what he stated it to be. The jealousy of Parliament, on this prerogative of the Crown to levy troops, commenced at a very early period of our history, and evinced itself by several acts and resolutions of Parliament. So early as Edward III. an act of Parliament was passed, by which it was enacted, that no person should be called out of the shire in which he lived, except in cases of insurrection or invasion; and he could not conceive that our ancestors, and he would leave it to the plain reason of any Gentleman in that House, would be guilty of so great a solecism in politics, as to prevent the drawing forth the forces of the country, except in time of great and extraordinary danger, but would leave in the power of the Crown the right of bringing into the kingdom an indefinite number of foreign troops, when and at what time it might to the Crown seem proper. This by no means appeared to him to be consistent either with prudence or discretion.

The 25th of the same King goes to a restriction of even this military force; and to confine it merely to such as were bound by their tenure and possessions to defend the country; it enacts, "That none shall be considered bound to find arms, but such as are bound so to do by the tenures of their lands." If then our ancestors were so jealous of trusting kings with this power over native troops, could it be supposed that they were so absurd as to entertain no apprehensions of allowing the King an unlimited power to introduce, by his sole authority, thousands,

thousands, or tens of thousands, of foreigners into the kingdom, to be employed in whatever manner he should think proper? If they could not trust native forces in the kingdom, who were attached to us by the ties of friendship and affinity, who were born on the same soil, who professed the same religion, who had imbibed the same principles, how could they trust foreigners, who could not possibly feel any attachment for us, but would be ready to act the part they were ordered, whether for or against the interests of the kingdom and the King's subjects? Our ancestors were not guilty of this absurdity: With the most scrupulous anxiety they provided against danger either from the one or the other; and he hoped that the watchfulness and jealousy which had always marked the House, would not now for the first time be departed from. Respecting the militia, which is composed in a great measure of persons possessing some stake in the country, in which the officers are gentlemen of landed property, and of course interested in the welfare of the kingdom, and who therefore could not be supposed willing to do any thing contrary to its interests, even with the control of these troops the King is not by law wholly invested; for by an act of the second of his present Majesty, which was an act for uniting the several militia laws, it would clearly appear what was the opinion of the Legislature upon the prerogative of the Crown with regard to the collecting a military force in the kingdom, even of the constitutional force of the country. By that act it is expressly enacted, that the militia should not be called out except in the case of invasion, or insurrection, or the apprehension of some great and imminent danger: And even in these cases it was not lawful to call out the militia, if Parliament were sitting at the time, without first acquainting them with such intention, and the grounds upon which the measure had been adopted. The clause which next followed, clearly demonstrated in his mind, and must in the mind of every thinking man, that even to this calling out the militia, if the immediate consent of Parliament could not be obtained, it was to be had as speedily as it could possibly be obtained; for in case the Parliament should not be sitting at the time when the militia should be so called out, it was further enacted, that the Parliament should be summoned within fourteen days of such calling out of the militia, and the measures which had been adopted laid before them; though in ordinary cases the Parliament could not be summoned to meet within less than forty days from the issuing of the summons; a regulation of law for which not only the necessity, but the speedy necessity, of a Parliamentary sanction for this deviation from the established constitution of the

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the country was manifestly apparent; and surely if the King was vested with an undoubted prerogative to bring into the country what number he might be advised to bring of Hessians, Austrians, Hungarians, or other foreign troops, the jealous caution of this act of the Legislature would be altogether useless and inefficient. In the Bill of Rights, he observed, we were not to look for any positive prohibition; nor were we to say, because there existed no prohibition of the prerogative of the Crown, in this instance, in the Bill of Rights, that therefore it proved the existence of such a prerogative. As well might it be said that several of the most valuable privileges of British subjects, which they held under Magna Charta and the Habeas Corpus Act, did not exist, or were taken away, because they had not been recited in the Bill of Rights.

An Hon. Gentleman (Mr. Grenville) had complained that he had searched in vain for any positive law which denied such prerogative to be vested in the Crown, or had declared the exercise of it to be illegal; he could direct the Hon. Gentleman to an act of Parliament in which that doctrine was to be found; he meant the Act of Settlement. He thought it proper to state to the House the objects of the Bill of Rights, and the circumstances under which it had been brought forward: Its principal design was to express the public sense of the several grievances which had existed under James the Second, and to take effectual measures for preventing the repetition of them, and the subsequent invasion of what they esteemed their undoubted rights and privileges, by the Crown. While there was a hope of issue to succeed to the Crown of Mary and Anne, there was no great apprehension of the introduction of foreign military forces into the kingdom; but when, upon failure of issue in them, and all hopes of an heir of that family in a situation to succeed to the Crown of these kingdoms, it had been found necessary to settle the descent upon a foreign family, with foreign connections and possessions, it was thought advisable to guard in the Act of Settlement against the introduction of foreign troops, which is effectually done in that clause of the bill, which says, that no foreigner or person born out of the kingdoms of Great Britain and Ireland, shall hold or enjoy any place or trust, civil or military, within this kingdom. Mr. Adair contended, that every foldier brought into the country, to act therein, is certainly in a situation of military trust, not to speak of officers who exercise official command, and who consequently must be in a high military situation. The usual clause in every Naturalization Bill, which passed through that House, he observed, was another strong corroborating circumstance to prove, that no foreign military force

can be legally employed within the kingdom ; for it expressly provides that the person so naturalized, shall not be capable of holding any place of civil or military trust ; from which may be fairly deduced, that, without the concurrence of Parliament, no foreign military force can exist in this country subject to any law or regulation. Would Gentlemen contend that the foreign officers and troops now in this country, were not in a situation of trust either civil or military ? Or would it be contended, because the Act of Settlement says that no foreigner shall be employed, &c. that it follows from thence that 6 or 8000 may be landed without impropriety ? That was rather too absurd a proposition to be attempted to be supported. He defied the utmost eloquence of any Gentleman in that House to fritter away the sense of words so clear and distinct as those were.

He trusted he had shewn first, that, by the common law of the land, no such prerogative of the Crown existed ; that there ever has been a jealousy in Parliament of the privilege of the King to collect any military force, without the express authority of the collective branches of the Legislature ; and that there was a positive existing law against the introduction of a foreign force in war or in peace into the kingdom, without the authority of Parliament.

The Hon. Gentleman (Mr. Grenville) had seemed to think but lightly of this prerogative and its consequences, while, on the other hand, he seemed to consider other prerogatives of the Crown to be of a more serious nature, and that they should at all times be subject to Parliamentary discussion and watchful jealousy. He confessed himself no enemy to the ordinary prerogatives of the Crown, such as were known, defined, and legal ; nor did he apprehend any great danger of an improper or unconstitutional use of them : He thought that those prerogatives were necessary to the well-being of the constitution, and for the benefit and interest of the people, for whose advantage and prosperity they had been vested in the hands of the supreme magistrate, and were as necessary to be preserved and maintained as any other part of the constitution. But the prerogative which seemed to him dangerous, and which the Hon. Gentleman had thought of such trifling consequence, was that prerogative, which, if it at all existed, was unknown, undefined, and unascertained. He wished Gentlemen to consider well what would be the consequences of the vote they might give that night. If they voted against the introduction of the Bill, they established in the Crown a prerogative dangerous in its nature, and which, though there did not exist any probability at the present day of such an use being made of it,

might be converted into an effectual engine for the subversion of the liberties of the country. The King might, at any time that he pleased, land any number of foreign troops in this country, without assigning any cause, or consulting Parliament, and employ them in any manner that he thought fit. At present they might, in case of an abuse of this power of landing foreign troops, call upon the ministers to assign the reasons for their conduct; but if it were once established as the undoubted prerogative of the Crown, to use a phrase appropriate to his own profession, the *onus probandi* would be thrown upon the House, to shew, by some overt act, that the prerogative of the Crown was used for dangerous purposes; and perhaps this proof might come too late, after an overt act of landing thirty or forty thousand Austrians, Hungarians, or Hessians; for the number was unlimited.

With regard to precedents, he had one general opinion, that no succession of illegal acts could make that right which was in itself unjust; but in the precedents that had been adduced, he thought they did not all bear out the observations which had been made upon them. It had been said that a body of six thousand Dutch troops had been brought for the defence of the country in 1714, at the time those very men who framed the Act of Settlement were living; that they never complained of the violation of this act, or any extraordinary stretch of the prerogative of the Crown, and they were most likely to know what was the intent and spirit of a law, which they had themselves been principally instrumental in framing. The Hon. Gentleman should however recollect, that this was at a time when there was an open rebellion in the kingdom, for the express purpose of setting aside that succession which they were so anxious to establish by the Act of Settlement, and it was not therefore very likely that they would condemn those measures which were adopted to maintain the Royal Family on the throne, and which they might very probably have themselves suggested. And the other, which had been adduced in 1744, was equally unfortunate, being also a time of open rebellion, when the Scots were in arms for the re-establishment of the Stuarts on the throne. All the other precedents which had been adduced, he did not think went by any means to establish the doctrines which had been laid down. He owned that he did not expect to have heard the present measure defended on the ground of precedent, and the undisputed prerogative of the Crown. But when he heard a Right-Hon. Gentleman, whose high situation, and splendid talents, gave weight to whatever might fall from him, in a manner so unequivocal express his sentiments on that subject, he thought it his duty

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to state to the House what his opinion was. He thought that the measure might have been well defended upon the grounds of necessity and humanity; for upon those grounds, he thought it not only justifiable, but praise-worthy; had it been stated, as he understood and believed to be the real fact, that those troops had been brought from their own country, for the purpose of a foreign expedition; that, from various and unexpected delays and sickness, they were detained on our coasts, and that they had been permitted to land, as humanity must have induced us to have permitted strangers to have landed, such a defence might have been justly set up; and had it been stated, he believed that he should have voted as he had voted upon the former night. He should have considered that there was less cause for jealousy in the present case, had not the assertion, that such a prerogative existed, come from the quarter that it did; a quarter that certainly gave occasion for a more than common jealousy, when the question was between the prerogative of the Crown and the law of the land; and when there existed no doubt in any other place upon the question but in that House, he certainly felt himself bound, as he thought every Member of that House was, to oppose it, and to vote for the Bill of Indemnity proposed. The present, he said, he had considered as a time of great and alarming danger, inasmuch as to induce him to give his support to men whom it had hitherto been his principles to oppose; but though he gave them his support for the war, he could not think of supporting them in every innovation which they might attempt on the constitution. He exhorted those Gentlemen who had acted upon the same principles as he had done, to be cautious how, in their mistaken zeal, they might inflict an incurable wound on the constitution of their country; it behoved them to consider well the situation in which they stood, and to avoid any act which might tend to disgrace it. He also warned the minister not to trust so far to political converts as to suppose, that those Noble and Honourable Persons, who, from a conscientious sense of duty, had joined him on some late occasions, would give him their support a moment longer than they saw him acting upon fair, sound, and constitutional principles.

Mr. Anstruther began his speech with remarking, that the conduct and comments of the Learned Serjeant who had just sat down, were extremely singular and somewhat extraordinary. On a former occasion, when the question had been submitted to the consideration of the House (he meant the simple question with respect to the legality or illegality of the measure), the Learned Gentleman had thought proper to vote with his Right Hon. Friend (the Chancellor of the Exchequer);

quer); but that night, when a distinct and separate question was brought forward for discussion, and upon which that same Hon. Gentleman had delivered his opinion (namely, that considering the question upon the ground and under the peculiar circumstances under which the troops had been landed in this kingdom, it did not appear to him to be a violation of the principles of the constitution, or a direct and positive breach of the law), he thought it the most proper and opportune season to differ with his Right Hon. Friend. The first proposition that had been advanced by the Learned Serjeant, Mr. Anstruther said, was of a very extensive nature indeed: It was nothing short of this, that it was by no means the prerogative of the Crown to raise, to muster, to discipline, to govern any troops, or to introduce any foreign force within the kingdom, either in time of peace or war. Did that Hon. Gentleman recollect, that the Crown was charged with the protection of the kingdom; and that, in time of war more especially, if his Majesty saw any danger, he was empowered by his royal prerogative to call out his forces? Was it not the common and invariable practice for his Majesty, in his speech to both Houses, to state, that he deemed it necessary to augment his army, and to increase his navy? Supposing, for instance, that the House had voted 24,000 seamen in time of peace, and that, during the recess of Parliament, a war broke out, and that the Crown, for the immediate safety of the kingdom, had increased that establishment to 40,000 men; would any Member in that House, would any man out of doors, would any man of common sense, find himself justified in saying, that such a circumstance was a direct and open violation of the sacred principles of the constitution, or a breach of any positive law? It was also worthy of remark, that, in point of precedent, it was clearly and unequivocally admitted, that the King, during the Saxon and feudal system, possessed the power of calling out the forces of the kingdom. In regard to the fact of the King's being possessed of the power of calling out the forces of the kingdom in time of war, the reign of Henry VII. the reign of Henry VIII. and the reign of Philip and Mary, furnished ample proof, and afforded abundant precedents.

The Learned Serjeant (Adair) had stated in strong terms, and in emphatic language, that the King did not possess the power of raising soldiers within the kingdom in time of war, without the previous consent of Parliament first had and obtained. To find a complete and ample refutation of this position, the House had only to recur to the preamble of an act that had been passed in the reign of Philip and Mary.

[Mr.

[Mr. Anstruther read a part of the preamble of the act, wherein it was set forth in the strongest possible language, that the King was thereby to be enabled to raise, to muster, to discipline troops, and to appoint officers.]

But this, he said, was not the only act of the kind that could be resorted to; there were several such acts. By the Petition of Right, and by an act that passed in the reign of Charles the First, it was evident that the Crown was possessed of the power of raising soldiers in time of war. He was ready to confess, that he could not discover by what mode of reasoning the Militia Bill could by any possibility be brought to bear upon the present question. A strong and compulsory reason was to be given for raising, for embodying the militia: That was a question for the consideration of Parliament; but what had that to do with the ancient prerogative of the King? He would not allow that the argument respecting the militia applied to the present question, nor that it had any thing to do with prerogative. If, under the circumstances of an apprehension of an insurrection, or of a foreign invasion, the King, by his proclamation, could embody the militia, and consequently could assemble the Parliament in fourteen days, and if the difference was, that when such circumstances did not exist, the King could not assemble the Parliament in less than forty days, yet what had that to do with the question then before the House? Was it, however, true that Charles I. had not called out any army in time of war? It was a little singular that the measure was not noticed either at the Restoration or at the Revolution. The next thing that had been alluded to, was the Act of Settlement. He was inclined to think, that the Act of Settlement had as little to do with the present question as the Bill of Rights. The Learned Gentleman (Adair) had stated the law to be clear on this point, that the King was not possessed of the power of having soldiers in this country without the consent of Parliament. It was singular that no declaratory act had been passed; and likewise that the circumstance had not been noticed in the Act of Settlement. That act set forth merely, that no place or pension, that no office, either of civil or military trust, was to be conferred upon a foreigner. But what reference had that to the present question? The object therefore of the clause in that bill, was to prevent foreigners from monopolizing under George I. places of great trust and emolument, as they had notoriously done during the reign of King William.

The next point that had been dwelt upon by the Honourable and Learned Gentleman, was the occurrence in 1715 and 1745. It was admitted that, during the rebellion, which

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was pregnant with danger and difficulty, the circumstances that occurred were thought to amount to a justification of such a measure. He should be glad to know why a Bill of Indemnity had not been passed after the period of the rebellion, for the measure he had just alluded to. It was very singular, that after the period of the rebellion, a Bill of Indemnity had actually passed; but in that Bill of Indemnity not the least notice was taken of the circumstance of bringing foreign troops into the kingdom. What was to be collected, what was to be inferred from this, but that that measure was not illegal? How was the present question to be decided? If the illegality of the act was not pointed out by the Bill of Rights, by the Act of Settlement, or even by the opinion of Parliament, at any one period explicitly avowed and declared, by what rule was that House to determine? or how was that House consistently to pass a Bill of Indemnity for an act that could not be found considered as an illegal act in any one of the Statute or Law Books? A great deal had been said about the expression, the *previous consent* of Parliament. It could not be supposed that the *previous consent* of Parliament *legalized* an act; but then the *previous consent* was something: He was at a loss to comprehend fully what was meant by *previous consent* of Parliament, unless it was an act of Parliament; and he should be glad to hear any Gentleman assert that such previous approbation would render any thing legal which was before illegal. He should be glad, speaking professionally, to put a case for the consideration of the Learned Serjeant (Adair). Supposing that in the present instance an action of trespass was to be brought, how could the Learned Serjeant, by way of justification, put upon the record, that the previous consent of Parliament had been obtained? If all that went for nothing, then the circumstances that occurred in 1715 and 1745, and the two cases that had been cited, must be directly in point. The Honourable Gentleman (Mr. Grey) who had brought forward the question that night, had concluded with reading a passage from Lord Coke, that reprobated the circumstance of placing implicit confidence in messages. But were that to hold, the objection would go to all communications from his Majesty, where a vote of thanks sufficiently proved the assent of Parliament to a measure that had been adopted under certain circumstances, and where an act of Parliament was by no means necessary, and perhaps, in some instances, might not even be attended with good consequences. Would any Gentleman assert, that the King had at no one period raised soldiers in this kingdom? From the year 1698 to the year 1701 there was a standing army kept up in this

country, and the Mutiny Bill was suspended. From that period down to the present time, no Bill of Indemnity, under circumstances like the present, had been passed; therefore it could not be presumed that this was a fit case upon which a Bill of Indemnity ought to pass. If it had been made out that there were precedents in support of the present motion, if it had been shewn that Parliament had passed a Bill of Indemnity in cases like that upon which the House was then deliberating, then indeed there would be a strong ground for the House to go upon. Acts of Indemnity were only necessary where subordinate persons had incurred penalties in obeying the orders of their superiors, and which penalties were recoverable in the ordinary courts; but they were never requisite in cases like the present, which were only cognizable by the Parliament itself. It appeared to his perfect conviction, that the cases that had been cited, went most fully and completely to decide the question. He would suppose this case, that a high character in the country had issued orders, and that officers had consequently acted upon those orders, and that it turned out that they acted illegally, then there would be a necessity for Parliament to pass a bill to indemnify those officers that had acted so, against whom actions might be brought. If no illegality were made out, a Bill of Indemnity would be the most improper of all possible measures; because, in the first place, the circumstances of such an act then passing, would give rise to the demand of a Bill of Indemnity in improper cases; and, in the next place, there was a full and complete justification upon the face of the measure itself. For these reasons, Mr. Anstruther said, he should give his decided negative to the motion.

Mr. C. Yorke confessed, that he was anxious to deliver his sentiments upon the question before the House that night. If it had been argued upon the expediency of the measure, that he might have agreed to; but when it was boldly asserted, and that from a very respectable person in that House, that the King, by his prerogative, could land in this country any number of foreign troops without the consent of Parliament, he thought it his duty to oppose that doctrine, and he considered it full time for the House to deny it solemnly, either by Bill of Indemnity, or some serious resolution upon the subject. He was ready to declare in the most explicit terms, that he perfectly coincided with the Learned Gentleman (*Mr. Adair*), whose opinion upon the subject had been so ably stated, and for whose judgment he acknowledged the greatest deference. Considering the turn the debate had taken, and considering the manner in which the question had been argued, it became a very grave and serious question indeed for that House to come

to a decision upon. He knew of no such prerogative as that contended for; it was not to be found in any book or in any law, that he had ever heard of. Before the Revolution, it never had happened that foreign troops were brought into the kingdom. In the reign of King John, and after a peace had taken place between the King and the Barons, that great constitutional charter Magna Charta was granted. The 26th clause of that charter ordered the removal of all foreign military troops in the kingdom, as soon as the disputes between the King and the Barons were terminated. This was by no means decisive upon the question; but he only mentioned it, in order to shew what a degree of jealousy existed even at that period, and to prove that no such prerogative was then vested in the Crown.

The Bill of Rights did not apply to the question for discussion that night, for that Bill only declared the particular rights that had been then attacked. In regard to the Act of Settlement, he thought it did apply; inasmuch as it stated, that no place of civil or military trust could be conferred upon any foreigner. He conceived that foreign troops being within the kingdom, was a circumstance to which that Act closely applied. As to times of war, which had always been made a pretext, he would ask whether, if Charles II. during the Dutch wars that prevailed in his reign, had understood that such a prerogative belonged to him, he might not have put Portsmouth and Plymouth in possession of France, with whom we were then allied (and it was well known that that Monarch bore no very particular aversion to the French nation), under the pretence of a Dutch war? At the time that King William introduced the Dutch troops into this country, he thought we were obliged to him. The King sent a message to Parliament in order that they might be suffered to remain here, but to that measure Parliament refused their assent. From similar causes he also thought the same of the cases of 1715 and 1745. On these occasions Parliament had not only voted addresses thanking the King for his communications, but had actually expressed their approbation of the measure, and given it their sanction.

He agreed in what had been said respecting calling out the militia, which could not be done by the King's prerogative without the consent of Parliament, except in cases of actual rebellion or threatened invasion, and upon all occasions while Parliament is sitting. That there was no possible danger to be apprehended to the constitution in the exercise of any prerogative by the present illustrious family on the throne, no man was more willing to admit than he was; but, notwithstanding,

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it was necessary for that House at all times, and perhaps more in the reign of a mild Prince than at any other time, to look a little to prerogative. Mr. Yorke said, he was clearly of opinion, that no such prerogative as that of landing foreign troops in this kingdom, without the consent of Parliament, did exist in the Crown; he therefore concluded with saying, that he should either vote for the Bill of Indemnity, or some strong resolution of the House, expressive of their denial of the existence of such prerogative.

Mr. Campbell observed, that ministers had in the present instance pursued most strictly the conduct of their predecessors. It should be recollected, that that House had the public purse under its control, and that no troops could be kept up and maintained without the consent of the Commons of Great Britain in Parliament assembled. What was done, he was perfectly assured, had been done for the public safety, for the sake of humanity, and for the preservation of the constitution; and the House had confessed the expediency and necessity of what had been done by his Majesty's ministers for the public safety. He would therefore vote against the question.

Mr. Sheridan said, he rather apprehended, that his Learned Friend who had examined and argued the question with so much ability and constitutional knowledge, was rather too sanguine in his expectations, as he had stated them in one part of his speech. His Learned Friend had cautioned the House not to imagine, that persons of high rank and character, who thought themselves bound to give a conscientious and independent support to the war, had so far forgotten their former principles as to follow the minister in all the new and extraordinary doctrines that he might think proper to adopt. His Learned Friend's arguments, it was true, were not to be refuted, and, coming from such high constitutional authority, as they ought to do, would doubtless make their due impression. But he had appealed to those Gentlemen, whose consistency he could not doubt, in giving a blind confidence to his Majesty's ministers. There were a certain description of men who were not to be convinced; men who were prepared to support any measures; and who, if they could not elucidate, always employed their talents in endeavouring to envelope in mystery and darkness what might with much greater ease be clearly exhibited. A Learned Gentleman who rose immediately after (*Mr. Anstruther*) had taken care to shew that of those who had for years distrusted the present administration, he at least was not of the opinion so candidly alluded to by his Learned Friend. When he recollected by whom the conduct of the Scots Courts, and the most uncon-

stitutional doctrine on which the House was now debating, had been defended, much as he wished it, he knew not how to believe what his Learned Friend had said, and of which he himself was an illustrious example. The Learned Gentleman (Mr. Anstruther) who took the opposite course, had chosen a strange mode of arguing; he had pushed forward in a heedless manner, and endeavoured to represent, in his own way, the arguments of his Hon. and Learned Friend, who, whether he was right in his warning to the House or not, was certainly not so over-sanguine as to let his zeal get the better of his abilities. Instead of replying to what was actually said, that Learned Gentleman (Mr. Anstruther) wished he could hear Gentlemen maintain propositions which nobody ever thought of maintaining; and then, proud of his great acuteness in detecting error, shewed how such propositions could not be defended. To some minds, truth was desirable, on account of its native beauty; but the Learned Gentleman, with a taste somewhat different, wished only to have falsehood presented to him. This, he feared, arose from the Learned Gentleman's not being so able to answer the facts that were adduced in argument, as the absurdities which he himself could imagine. There, however, was one part, and he was sorry that it was the only part of the Hon. Member's speech, which applied to the purpose; he meant the precedents in relation to the conduct of Bills of Indemnity, and of what benefit they were.

Mr. Sheridan contended, that as it was a breach of the law to advise the King to dissolve the Parliament, so was it an aggravation of the conduct of those who advised him to land the foreign troops in this kingdom without the approbation of the Commons, inasmuch as the one was a trifling circumstance compared to the magnitude and danger of the other. He admitted that in cases like the present, the consent of Parliament did amount to a constitutional indemnity; but if the bringing of foreign troops into the kingdom was contrary to law, however justifiable in point of expediency, he contended that ministers and all their agents stood as much in need of an act of indemnity as for shutting the ports against the exportation of corn, when by law they ought to be open. It was the clear and indisputable principle of the constitution, that every one of the prerogatives of the Crown, and every branch of the executive power, being held for the good of the people, the abuse of every one of them was punishable; but if such a prerogative existed as that of landing foreign troops without consent of Parliament, it was idle to talk of punishing the abuse of it, for the first abuse must be the death-blow of the consti-

constitution. To look into books for the illegality of such a claim was, he observed, mere waste of time; common sense was sufficient to shew that it could not exist. If it did exist, where was to be found the law to regulate the exercise of it? for as sure as any prerogative existed by law, it was subject to legal restriction. If he was told that there was no provision made by law against it, he would answer that, like the crime of parricide in the contemplation of the Athenian lawgiver, it had never been thought of by our ancestors as possible. The Act of Settlement was not, as it had been represented by Gentlemen on the other side, a mere contrivance to secure to those who passed it a monopoly of places and employments, by excluding foreigners from all participation. The Gentlemen who argued so had lately received a considerable accession of foreign aid; he knew not whether they had found their places and employments greatly broke in upon by their new auxiliaries; he desired them, however, to prove that the landing of foreign troops was legal before the Act of Settlement; and since that period, would they pretend to say, that troops so landed were subject to law? He was against narrowing the question, according to the suggestions of his Learned Friend, by comparing it with common law; but to take it upon ground, as extensive as he thought the danger arising from it would be. From the present state of the troops in question, would any man say that they were under military law? Would any man maintain, that if any of them should desert, he could be punished by the Mutiny Bill? Were he a magistrate of the Isle of Wight, or of the county of Hampshire, destitute of the irresistible attachment to government and to ministers, that some magistrates were apt to manifest, he should not hesitate to declare, that he should think himself bound to disband them, as a set of tumultuous and disorderly men. The danger was evident, and he could quote an instance which would incontestably prove its imminence. A very eminent man, once an ardent supporter of the people's cause, but who, like some others, disgraced himself by the most scandalous and abandoned apostacy, and become as ardent a supporter of prerogative (the Earl of Strafford), when he commanded an army against Scotland, was told that the soldiers under his command at York were assembled contrary to law, and consequently were not legally bound to obey him, returned for answer, "That it might be, but he would hang any man who should dare to tell them so." When he recollected that memorable speech, he was aware of the arguments to which Gentlemen on the opposite side of the House would have recourse, were he to enlarge upon the situation in which

he considered the Hessians, who were the subject of that night's debate.

It had been asked by an Hon. Member (Mr. T. Grenville), whether, if our troops were employed on the Rhine, the troops of our allies at Ostend, and an invasion was threatened, he would not impeach the minister who should neglect to bring from abroad these foreign troops to defend the country; and how he could impeach the minister for doing that which was against law? To this he would answer, that if the country could suffer the incapacity of a minister to bring it into such a situation, it would not be worth while to impeach him, for the country would be past the possibility of being saved. If this idea had not fallen from Gentlemen recently attached to ministers, he scarcely should have imagined it probable to have been entertained. They were anxious to manifest their confidence in the wisdom and promptitude of administration, and certainly had the best claim to sincerity, when they advanced any arguments that hinted at their imbecility. He was of opinion, however, that a descent on the country might not be improbable, if Gentlemen candidly considered in what manner our navy was employed. At present a large portion of the navy was assisting at the reduction of Corsica, while our trade was neglected, and captures made daily in the Mediterranean, and even in our own Channel.

Mr. Sheridan declared that he had no objection to vote for a Bill of Indemnity, for a meritorious violation of the law, nor would he be the last to move for their impeachment for leaving the country in a situation almost entirely defenceless.

If it were the wish of the King to land a foreign force, he maintained that any construction which could be put on the Bill of Rights was a paltry consideration, compared to the consequences that must result from such a measure. He did not wish to speak of any particular Sovereign, when he asserted, that Kings in general thirsted for power, and their ministers were seldom known to resist their propositions. The Militia Act enjoined, that if the domestic force of the country was necessarily to be called out, the circumstance should, as soon as convenient, be submitted to the House. But if in an interval of anarchy, 50,000 foreign troops were to land in the kingdom, who would assert that the responsibility of the minister was a sufficient apology for the measure?

Much stress, Mr. Sheridan observed, had been laid on the immediate communication to Parliament. What law was there to compel that immediate communication?—Reprove or impeach the minister.—Of all men, he should like the least to reprove the leader of an army of foreign troops. While the
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House was dividing on the reproof, they might meet his advanced guard in the lobby. What legal surety was there afforded to the House for this miserable security, when the terms of an armed force may with much ease ensure a majority? Where would the virtuous minority that would venture to oppose such innovators be to be found?

The next point that challenged notice was the precedents. What occurred in the year 1758, when the late Lord Chatham was in administration, was one of those quoted; and another, which was not a little extraordinary, of the year 1784, on the very day it had been voted, that the ministers of the Crown had forfeited the confidence of the nation. At that time it had been mentioned, that ministers had introduced foreign mercenaries without the consent of Parliament, and that then no Bill of Indemnity was required; but this he contended was unnecessary, as the House had voted that his Majesty's ministers had forfeited the confidence of the Public. In certain cases he did not conceive it proper, or good policy, to lock up the hands of the executive power. There were certain principles however in a free government under a free constitution, from which the House should never depart. If it were true, that, in voting the army estimates, and the estimates of the navy, the exposure of our finance, and other circumstances, was disadvantageous to make public; still, considering that the inestimable advantages which depended on keeping the spirit of the constitution inviolate were put into the opposite scale, there was no Member in the House who would not say, that the constitution of the country should be held sacred; and that a trifling blemish did not obscure the valuable privileges that resulted from it, when its other forms were impartially contemplated.

His Hon. Friend had said, that the question was an abstract one; he agreed with him that it was so, and was glad that he so considered it. In the case of the Regency, an abstract question had been started upon the assertion of a great constitutional authority, and it was then of sufficient moment not only to cause the allotment of a particular day for the discussion, but to be brought repeatedly into mention in many subsequent debates; on the present occasion he thought it necessary that the question should be fully decided, if it were only to know whether the right exists in the Crown; if not, the case of the landing of the Hessian troops in the Isle of Wight would prove a more fatal precedent than any other: For the notoriety of the fact would remain; and the acquiescence of the year 1794 would last as a disgrace, and
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sooner or later operate most banefully and perniciously to the constitution.

The real question lay in narrow bounds. Let it be proved that the prerogative contended for had always existed, that it was safe, and subject to proper control. Every control of the executive power was attended with some disadvantage, but the general result was of such inestimable benefit as far to outweigh all the partial inconveniences. For these reasons, Mr. Sheridan thought it of the utmost importance that the question should be settled; and he was sure that his Hon. Friend (Mr. Grey) would persevere, from year to year, if necessary, to call it into consideration till it was finally decided and set at rest for ever.

The Attorney General declared himself anxious to say a few words on the question before the House: He hoped therefore he should be allowed a momentary indulgence. The House, a fortnight ago, had agreed that it was improper to decide on the legality, or illegality, of introducing foreign troops into this country; yet that night it was called on to grant a Bill of Indemnity for the very measure, which they had refused to resolve to be legal or illegal. The House, he was certain, would not sacrifice its character by such inconsistency, nor would it then adopt a motion similar to one which it had rejected on a former occasion; though not, perhaps, in words, yet clearly in import and substance. He considered the prerogative of the Crown to be as sacred as any other branch of the constitution. There was no prerogative vested in the hands of the executive power that was not liable to abuse; but if it was abused, the House and the nation could punish the ministers who advised the Crown, and whom the constitution made responsible for its errors. He agreed with the Hon. Gentleman (Mr. Sheridan) that if the minister were at the head of 50,000 men, it would be difficult to make him responsible; but the supposition was too extravagant to comment on, and the argument made not more against our own than against every species of government. He contended, that the Militia Bill was not at all concerned in the present question. He asserted, that governors must act in the same manner as individuals, if it was thought advisable to grant them any power; they must also be allowed the means of maintaining their authority, or else such powers could not exist to any useful purpose. The precedents he would decline discussing, but he denied that they decided the question. In the rebellions, Parliament did not pass an Indemnity Bill on the ground of foreign troops having been sent for; though

proposed at the proper time, it was rejected. One Bill did indeed pass that House, but it was thrown out in the Lords. He was certain the House would not decide on the illegality of the introduction of these troops, if it meant to bring in a Bill of Indemnity, for which he could not see the smallest necessity: It ought first to come to some specific resolution on the illegality. The Attorney General concluded with contending, that no argument, drawn from the danger of the abuse of power, ought to have weight with the House to determine its decision, respecting a question so nice in its nature, and which had for a variety of reasons better remain as it was.

Mr. Serjeant Adair denied, that he had been guilty of any inconsistency. He was satisfied of the illegality of landing foreign troops. He had moved the previous question on the former motion, because he considered the particular act as having received the sanction of Parliament; and he should vote for the present motion, because the general principle, that it was legal to land foreign troops without the consent of Parliament, had been maintained.

The Earl of Wycomb said, late as the hour was, he must beg leave to trouble the House with his opinion on a point so generally interesting, because so constitutionally important, that if every idea of the constitution which he had been able to collect for himself, or had received from education, was not founded in prejudice, the King had not the prerogative which was now contended for. Till this political heresy was done away, the constitution could not, in his judgment, be regarded as safe. He allowed the present to be a subject of grave and serious import, and a question which naturally and materially concerned the rights and liberties of the people. There was every reason for the people of England to look with jealousy and distrust on the proceedings of ministry. Nor could he wonder at his friends and the people being enraged, when they saw foreign mercenaries introduced into this country, at a time when our own troops were sending out of the kingdom to serve in the Mediterranean, to procure the conquest of Corsica, to aid the combined army in Holland, and to attempt the capture of territory in the West Indies. He was not surprised that discontent should be general through the kingdom, when the people saw Hessian troops introduced to protect and defend the coasts from the attack of an enemy. The introduction of these troops was neither consistent with the established constitutional maxims of economy, and he was certain it was repugnant to the very idea of rational policy. Much as he valued foreign conquest, he preferred domestic felicity, which he could not be sure of, whilst mercenary troops were

were in the country, or whilst the minister had the power of introducing them into the kingdom. He recommended the Bill of Indemnity, and said, it was necessary, in a political view, for the reasons which had been already so ably stated by a Learned Serjeant: That it was necessary, in an economical view, was too apparent to need illustration; and that it was requisite, as a declaration of the sentiments of the House, would readily be believed, when the importance of the subject was considered, and the opinions, which had excited so much attention, were remembered.

He spoke of the state of Ireland, which was left almost defenceless. Every man acquainted with the state of Ireland, he said, knew what apprehensions were felt there—not from a war of Catholics against Protestants (for his Majesty had no better subjects than the former), but from a war of the poor against the rich. He should vote for the motion of his Hon. Friend, considering the power which it was meant to disallow, as unfit to be possessed by the Sovereign of a free people, and as a Bill of Indemnity in this case might establish a necessary and useful precedent, which might prevent future ministers from transgressing the limits prescribed by the constitution.

Mr. Smith said, that the illegality of introducing foreign troops into this country could not be questioned: No constitution could contain a principle which was *felo-de-se*, which struck at its vital part, and endangered its existence. It had been asserted by the ministers of the Crown last year, in that House, that the executive magistrate could build barracks in any part of the country he pleased; and, when built, Parliament might take into consideration the propriety of their being erected. If the Crown had also the power of introducing foreign troops, he could not tell what further power it would think necessary. If the Crown was vested with such dangerous prerogatives, it would be equally despotic with any others in Europe, first to build whatever fortresses it pleases (for barracks not having a legal definition, fortresses might be built under that name), and then to introduce those foreign troops to garrison those fortresses which may be procured by treaty, or by pay: What can it fear? what may it not accomplish? Might not fortresses so garrisoned bid defiance to all the power of the country? Gentlemen asked, what was the use of the Bill? Its use was obvious. It would declare the act of introducing these troops to be illegal, and establish a valuable precedent; as in the present instance, the necessity had sufficiently justified the measure to entitle ministers to an indemnity, and the Bill would prevent an ill-intentioned minister, if such an

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one should ever be found, from landing such a number of foreign troops as might sufficiently overawe that House into an approbation of all his subsequent measures? Mr. Smith said, he would not reply to any of the arguments of the Attorney General, who seemed at a loss how to act on this subject. On a former night he had wished the question not to be decided, but that night he wished not himself to decide.

Mr. Powys said, that the fair inference of the arguments which had been advanced in support of the motion that night was, that a suspicion and a jealousy were entertained of his Majesty's ministers. If there were any grounds for that suspicion, Gentlemen ought not to come forward with their Bill of Indemnity, but should make a motion for impeachment, and lay before the House, and the country, their motives and their reasons for entertaining such suspicions. He said, he had voted for the Bill of Indemnity in 1775, but thought the present case came within the precedent of 1784, and should therefore vote against the motion.

Mr. Adam said, he would detain the House but a few moments. Nineteen years ago he supported administration: At that time the momentary introduction of foreign troops was necessary; after deliberating with the Hon. Member who spoke last, he determined that a Bill of Indemnity was necessary, and in all the reflection and consideration which he had since been able to give the subject, he never had felt the smallest inducement to change the opinion which he had then formed. His Learned Friend (*Adair*) had laid down so very ably the common law, that it was unnecessary for him to say a word on the subject, but he asserted that there was no free constitution in this country, if the Monarch introduced foreign troops without consulting his Parliament. In 1715 and 1745, he allowed the Parliament was silent; but it by no means followed, because Parliament did not interfere, that the law was altered. What was the opinion of Lord Mansfield, that great and respectable authority? At the time of the Corn business before alluded to, he thought a Bill of Indemnity absolutely necessary, as well for the safety of the ministers, as for the preservation of the constitution. He said, he would keep his promise to the House of not going at large into the question; but that, after the most serious deliberation, he was determined to support the Bill.

Mr. Fox said, it was not his intention to go into argument, after the able discussion the question had received from his Learned Friend (*Serjeant Adair*); nor indeed was there occasion; for none of the arguments that his Learned Friend

had advanced, were in the least refuted. His Hon. Friend (Mr. Adam) had considered the subject in a plain but manly point of view. He had weighed it with that dignity becoming a great mind and an able Senator; and, from what he had heard advanced by him, and from his own opinion on this important subject, he concluded, that if the introduction of foreign troops into this country was legal, to talk of liberty was absurd, to speak of a free constitution was weakness. If the House did not come to some resolution on the illegality, all the libels of those, who said we had no constitution, would be converted into melancholy truths; and even Mr. Paine himself had not written a word of falsehood; but the question had been that night too well argued for him, or any unprejudiced man, to entertain a doubt on the subject. Ought such a question to be agitated in a free Parliament? Ought such assertions, as had been advanced, to find their way into this House? Or ought we to remain a moment in doubt, whether such a dangerous and arbitrary power should be vested in the hands of the executive magistrate? If there is, or if there should be, such power in his Majesty's ministers, all he would say was, that every idea he had formed of the British constitution was vanished; and as long as he remained in that House, and had the liberty of speech, he would remind the House of its situation; and echo it again and again to the country that it was not the intention of our ancestors that his Majesty's ministers should possess so dangerous an authority. The Attorney General had, although he opposed the motion, again declined to state his own opinion on the general question; but it was not very difficult to guess what his opinion must be, for if it had been conformable to the ministers' opinion, it would not have been withheld. Indeed, Mr. Fox said, he was surprised to see the Attorney General so soon forget those sentiments he had advanced on a former night: He seemed to feel the difficulty of his situation, and he (Mr. Fox) was afraid, he could not help him out of that difficulty. If his Hon. Friend (Mr. Adair) should ever be Attorney General, under such circumstances he was sure he would advise a Bill of Indemnity. Indeed, he had every reason to suppose his Hon. Friend would persevere in his resolution; and in him, he was certain, the country would not have a timid Attorney General.

Much had been said on the ground of precedents. Did the precedents prove the legality? It had been contended on the present occasion, that the question ought not to be discussed, because the illegality was clear. What had been the opinion of several Gentlemen that night, might have been the opinion

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opinion of Parliament on former occasions, and prevented any formal declaration on the subject. He was sure it was so in 1784. But the question had been in the present instance agitated, and let Gentlemen be enabled to tell their constituents whether or not they still had a constitution. The argument of responsibility would justify any prerogative; but it was a very different thing to be able to tell a minister that he was wrong, and arrest him in the very first step, and to be obliged to watch him in his progress in order to prove something wrong, when the proof might come too late. The King could call and dissolve Parliaments, but he could not prevent the meeting of Parliaments, because for the abuse of such a prerogative there would be no means of redress. Just so was it with that now contended for: If it were possessed by the Crown, it would carry with it the power of preventing all control. If the King without such a prerogative were to attempt bringing a foreign force into the country, all men would see that it was a violation of law, and be prepared to resist it.

He flattered himself that the Right Hon. Gentleman over against him was ashamed of the assertion he had made on a former debate, and that, as to the illegality of introducing these troops, there was but one opinion. He trusted that the House would execrate the idea of the Crown's having this power; and he scarcely doubted that it would be equally execrated through the country, in different parts of which different opinions were entertained on this subject. The objection made that night to the motion was, that because Bills of Indemnity were unusual, they ought not to be granted. On a former night the motion was refused, because it was deemed unnecessary. Indeed, there were different opinions in the House on this clear and constitutional principle; some Gentlemen said, they ought not to interfere, because the measure was illegal; others justified the proceeding; whilst others refused giving any vote on account of the illegality.

With regard to precedents, they had been so fully debated, he would not trouble the House. It would, he thought, be criminal to sit silent, and not at least establish a settled precedent for posterity, since it was the silence of our Parliaments, on similar questions, that gave us the smallest cause to doubt of the illegality; but our ancestors never imagined that there would have been any ambiguity in construing the Act of Settlement. Had this occurred to the great men who framed that Act; or had they entertained the smallest doubt that the legality would be disputed, they would have guarded against the delusive and the artful practice of endeavouring to con-

found right and wrong, truth and falsehood, so often resorted to in cases of difficulty by the servants of the Crown.

A Gentleman had alluded to the case of a sick Hessian, and had asked, whether, for receiving him on our coast, would a Bill of Indemnity be required? And this case, he said, applied in the present instance: But why would any Gentleman use so absurd an argument? Was that the case, or was it not? When the message was sent by the Crown, it had been asked how many foreigners were to be introduced? His Majesty's minister answered, he could not declare. It had been demanded, how long they were to remain in this country? On that head they were equally uninformed. It now turned out that this kingdom was to be the rendezvous of this foreign army, and here they were to remain till a descent on France should be practicable. He declared he should be happy that the House would agree to the motion, and go into the Bill; the legality of the power would then be fully discussed; and the people of Great Britain would then know if they were free, or whether their constitution was worth protecting.

It had been said, that every prerogative was carefully watched over, and that ministers were responsible for every abuse. He supposed ministers would not engage in a measure declaredly illegal, unless they had some grounds to justify that illegality; but if their intentions were pure, if their intentions were upright, what objection could they have to the proposed Bill of Indemnity? He could not see into the hearts of men, but he knew ministers were almost necessarily attached to prerogative, and often increased it to answer some favourite object. He alluded to the argument that had taken place respecting the corn laws*, and quoted the authority of the late Lord Mansfield, to shew the propriety of ministers seeking indemnity, when even necessity should urge them to act illegally. Nothing could be more dangerous than this, except the Crown refusing to assemble Parliament. If ministers could introduce foreign troops when the Parliament was sitting, they might as well attempt it when it was not sitting. When every subject should rise in arms to oppose them; and, supported by the law, should bring them to a proper sense of their duty.

Mr. Fox, in strong terms, recapitulated several of the arguments which had been advanced in the debate. He trusted

* In 1784, when Lord (now Earl) Camden, being President of the Council, issued a proclamation, laying an embargo on all ships in the different ports freighted with grain, and outward-bound, there being at that time a dearth of corn in the kingdom apprehended, which might possibly have created a famine, if not timely prevented.

Gentlemen would recollect their sacred situation; and he hoped they would not return to their constituents, and tell them, the minister has the power to introduce foreigners at his discretion. They would not surely address them in these terms, for such alone would truly describe their conduct, if they voted against the motion from an idea that it was immaterial: "With regard to mercenary Hessians, we have reposed in the minister that power which we are jealous of our giving our own militia. We have permitted him to send from the country our own regular troops; and have suffered him to substitute in their place, Prussians, Hessians, Austrians, or Russians. We have surrendered those rights which our fathers have struggled to procure; we have reposed in him that unlimited confidence which his predecessors were never suffered to enjoy. We give our liberties to be protected by strangers, who are ignorant of their value. We have thus sported with your freedom." No, said Mr. Fox, let us not betray the trust reposed in us: Let the Crown Lawyers come forward, and not decline giving their opinions: Let them defend this important point: Let them declare the language of the British law, which is so clear and decisive on the subject; and let no man in the House of Commons conceal his thoughts on this material, this fundamental principle. He said, he would vote for the Bill; though he would not deny that he preferred the former motion; it was a regular and parliamentary proceeding. The late Lord Mansfield had asserted, that this was a proper mean through which the opinion of Parliament may be declared. On the decision of that night the liberties of Englishmen were at stake. If the motion should be negatived, one of two ideas, he knew not which the most mischievous, would go abroad; either that the House had affirmed the legality, or that, from timidity, and deference to men in power, they had shrunk from the inquiry. If it was asked why decisions were not called for on other points of the constitution as well as upon this, Mr. Fox said, he would answer, because on most other constitutional points there was no material difference of opinion; but here a new and dangerous claim of prerogative had been maintained, by great abilities and great authority. The former motion was, in his opinion, preferable to the present; but as the House had not left him the liberty of choice, he should vote for the present motion.

The Chancellor of the Exchequer said, that he would follow the example of some of the Gentlemen who spoke last, by offering the observations he had to make in as short and summary a way as possible. He felt it incumbent on him not to be

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be entirely silent, although he thought it by no means necessary to enter at length into the wide range of discussion which had been taken that night, as the true and substantial point on which the question moved, lay within a very narrow compass. The plain question before the House was, whether, having a fortnight ago decided that a declaration on the subject of the King's power to introduce foreign troops in time of war into these kingdoms, without the previous consent of Parliament, was uncalled for, they would now consent to the introduction of a Bill of Indemnity, which aimed at the same object by less applicable, and still more objectionable means? He did not think it possible that Gentlemen, who had voted against the declaration, would think themselves called on, by any additional arguments which had been that day adduced, to vote for the present motion. To elucidate the matter completely, and bring the whole of the question more immediately before the judgment of the House, it would be necessary for him shortly to recapitulate the proposition which, on the former time of discussion, had been laid before them, and the general scope of the arguments on which they had grounded their rejection of it. The proposition was neither more nor less than for that House to declare, that the bringing of foreign troops into the kingdom, without having the previous sanction of a positive Act of the Legislature, was illegal. What were the arguments which had induced them, when that proposition was made, to put their negative on it? On the former day one set of men had objected to the declaration, on the ground that an abstract question was not at all necessary to be decided, since our ancestors had wisely avoided coming to any precise declarations on the subject; others had objected to the particular proposition, as unwarranted by law, and unsupported by argument; and another set of men had objected to it, because, in their minds, the fact on which it was to be grounded, was too narrow and confined to call for a measure of that extent. Among the latter class, in particular, the Learned Serjeant who supported the present motion (Adair) had objected to the former. On some one or other of these, he said, all who had agreed to the rejection of the motion had voted. What was now proposed? A Bill of Indemnity (which necessarily implied that something illegal had been done, and made it necessary) for an act which they had themselves, on full discussion and mature deliberation, declared not to be illegal. Nothing could be more evident, than that they must first make a specific declaration of the illegality of the act, or a Bill of Indemnity would on the face of it be an absurdity; and the very preamble of such a Bill, if they were induced to pass

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pass it, must premise, and in the out-set contain, a declaration of a principle, the existence of which was positively denied, but which, if it did exist, was, by the confession of the Gentlemen who supported the present motion, not at all applicable to the point to which the proposed measure tended to apply it. All those, therefore, who were against a declaration, must, in consistency with their former opinion, refuse their assent to a motion which had all the original objections upon which they acted, together with the new objection, that if the abstract question were to be found right, a Bill of Indemnity would not be the best remedy.

He repeated it, that it had been the wisdom of our ancestors to abstain from the discussion of all nice and delicate questions of prerogative; and whenever they felt themselves called upon by a special case to interfere and decide a constitutional point, by a precise definition, they adhered strictly to the single case, and went no farther than the case demanded. Thus the Bill of Rights had left the present question untouched, for it decided only in a general manner on the points which were felt to be existing grievances. This reasoning applied with peculiar force to the present case; for the House would first, surely, inquire whether the circumstances demanded their interference, and whether, if it was necessary for them to interfere, the measure was commensurate to the occasion. They had decided the first of these propositions; and having found that the circumstances did not demand that they should depart from the wise and prudent course of their forefathers, they would hardly agree to the passing of a Bill proceeding upon a declaration that they had already rejected. The question was precisely the same as to all the objections which lay against the other, but it was not the same as to the arguments that might be urged against it. In order, however, not to rest this on his own naked assertion, he said, that he would shortly consider the arguments on which Gentlemen had endeavoured to persuade the House to depart from its former deliberate decision. The arguments used for the support of the motion, were, first, That it was unwise in Parliament to leave any case of constitutional doctrine which had been set afloat unsettled. He averred that such had been the practice of Parliament in all the most difficult cases; they had been ever loath to follow up to strict and precise definitions, questions which might be better left to practice, and had always avoided coming to any decision upon them, unless in cases of such pressing exigency as to render decision unavoidable. Was there reason, he asked, to think that the constitution would be at all better, if every case that was brought before the House, was to be
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followed up with all the metaphysical abstract distinctions that able and subtle men could carry it to?

Gentlemen had thought fit to raise an alarm, by maintaining and proclaiming that doctrines were asserted injurious to the constitution; and it was insinuated, that the case of right, whether in the prerogative or not, had never yet been fairly brought into discussion. The fact was directly the reverse; and no great cause for alarm, he should imagine, could be found in a case to which mens minds must have been turned so often, and upon which they had never thought it necessary to come to any decision. That it must have been often presented to mens minds was obvious, since a single war had not occurred subsequent to the Revolution, in which grounds had not been furnished for a proceeding of some kind or other on the subject, if Parliament had thought it necessary to interfere. In fact, the question had often been discussed. On one occasion a Bill of Indemnity had passed that House, and had been thrown out by the Lords. He held in his hand another instance exactly in point. In 1776, a motion for a Declaration had been made in that House exactly similar to the one made a fortnight ago, except that, instead of the words "into these kingdoms," it was stated, that "the Crown had no right to introduce foreign troops in time of war into any of his Majesty's foreign dominions, without the previous consent of Parliament;" and this motion underwent a long discussion. The previous question was then moved, and was carried by a great majority of 149 against 88. Since, therefore, it had been the uniform practice of Parliament to avoid coming to any declaration on the subject, what was there in the present circumstances that should induce them to depart from a policy so wise and so manifest? He had not hesitated on the former day to say explicitly, that, though he had no objection to the previous question, yet he would have been willing to meet the question fairly upon the merits; because he was convinced that it was not illegal in the King to introduce into this kingdom foreign troops in time of war, provided that the measure was accompanied by what was the undoubted duty of ministers, *viz.* that they should take the earliest opportunity of communicating the fact to Parliament, stating the occasion upon which such foreign troops were introduced, and taking the sense of Parliament on the subject, by some mode, or form, well known in practice. These, as far as he could recollect, had been nearly his words; and such was the manly declaration which did so much honour to the Hon. Gentleman opposite to him (Mr. Thomas Grenville). That opinion was before the House on the former occasion, and it ought upon that occasion

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occasion to have had its due weight and influence. Yet it had been that day confidently asserted, that the opinions which had been given made a Parliamentary declaration necessary: And the learned Serjeant had declared, that though he did not think the case itself so material as to demand any measure, yet, that in his opinion it did require, in some way or other, the interference of Parliament.

His own conduct, the Chancellor of the Exchequer said, had been quoted, when, on a former memorable occasion, he thought the assertion of an individual member a sufficient ground for a Parliamentary Act. He certainly did, on that occasion*, think the assertion in question a sufficient ground for a Parliamentary proceeding; but he had not thought so because the assertion was merely the opinion of an individual, however high, but because that opinion met them, *in limine*, at the very threshold of the important business in which they were then engaged, and which therefore it was indispensibly necessary to dispose of in the first instance. But was that the case at present? Was any opinion that he might himself deliver, or that of any individual Member, of sufficient importance to demand a measure of Parliament, or even of the House? An Hon. Gentleman (Mr. Sheridan), who was of so singular a turn of mind, and so happy in the talent of reporting what fell from him, that he represented him with equal accuracy, whether he was present or absent, had said, that he had unnecessarily and eagerly come forward to volunteer his opinion of the legality of introducing foreign troops in time of war. He had done no such thing; but when a general challenge was thrown down, and assertions of the illegality were made with great warmth, vehemence, and peremptoriness, he did feel that it would not have been manly in him, as he had an opinion on the subject, not to accept the challenge so boldly given by the Learned Serjeant. Thus called upon, he had declared what was his opinion, *viz.* that the measure was not illegal either by the letter or spirit of any statute; nor was the declaration demanded, proved or shown to be either consonant to precedents, or to the practice of Parliament. He did not hesitate in repeating the same opinion, and in declaring, that he knew no law to make it either wise, prudent, or necessary, to pass a Bill of Indemnity on account of the late landing of Hessian troops. Gentlemen

* In one of the debates during the King's illness on the subject of the Regency, when Mr. Fox declared, *His Royal Highness the Prince of Wales had as clear, as express a RIGHT to assume the reins of Government, and exercise the power of Sovereignty, during the continuance of the illness and incapacity, with which it has pleased God to afflict his Majesty, as in the case of his Majesty's having undergone a natural and perfect demise.* Dec. 10, 1788.

affected to be angry and indignant, as if he wished to assert an unconstitutional doctrine, favourable to prerogative, and injurious to the country and the constitution. He meant nothing like it; and he once more called upon them, to point out to him what positive law it contravened, what precedents it violated, what course of practice it traversed? It had been said, that ministers might peevishly think themselves lowered, and their pride wounded, by a Bill of Indemnity. They certainly had no such folly. They had themselves, in various instances, moved for Bills of Indemnity, and he should have occasion, in a few days, to lay the copy of an order upon the table, which the King's servants had thought it right to issue, to stop the export of certain stores, destined, as he believed, for France, which, perhaps, they could not do strictly by law, and for which, therefore, he should call for a Bill of Indemnity. But he should never think it right, merely to save a warm debate, to avoid odium, or to spare themselves trouble, to concede so far as to ask for or agree to a Bill of Indemnity on a matter not declared to be illegal.

Before he sat down he felt it necessary to observe, that this, as well as various other instances, was merely an endeavour to raise a clamour against the executive government; but he was persuaded that the House would form their judgments upon the whole of the case, and determine, not on assertions, but on facts and arguments; in which case he had no doubt but the project of his adversaries would be defeated.

The Chancellor of the Exchequer concluded with a declaration, that he persisted in the propriety of the measure, and called upon the House, for the sake of their own consistency, to negative the motion.

Lord Carysfort declared, that he thought it necessary to explain the vote he meant to give. There could be no doubt as to the illegality of the Crown's landing foreign troops in this country, without the previous consent of Parliament; and, therefore, he was sorry to hear the doctrines which had fallen from Gentlemen. But as he considered the landing of the Hessian troops as a circumstance which, taken in all its aspects, did not manifest any intention of exercising the assumed prerogative, he did not think it necessary to pass a Bill of Indemnity.

Mr. Bouverie was of opinion, that it was illegal to land foreign troops in this country without the consent of Parliament; but there seemed not to be a sufficient reason for pressing the question just then. He thought the measure uncalled for, and therefore, he said, he should vote against the motion.

Mr. Grey rose in reply. Although he had intended, at the beginning of the debate, to reserve himself for the purpose of
speak-

speaking to what should be advanced against his motion, yet, he said, he would not, at that late hour, trespass much on the indulgence usually granted on such occasions. He shewed that there was a great difference in the grounds on which the several Gentlemen opposed his motion, but asserted that no one of them had replied to him, and the supporters of his motion, on the arguments they had advanced to establish the illegality of landing foreign troops in the country, to any amount, at the pleasure of a minister. He would just take notice of some particular points advanced by a Right Hon. Gentleman opposite to him (Mr. Pitt), who, in substance and effect, had repeated the very same opinion which he had advanced on a former night. He used the terms "in substance and effect," because, although his argument of this day was delivered in more words, and in a qualifying kind of language, yet it was exactly the same with the opinion he had before delivered; namely, "that the King had a power, in time of war, of introducing foreign troops into any part of his dominions without the previous consent of Parliament." The Right Hon. Gentleman had also referred to precedents, but those precedents did not support him; not one of them which he had mentioned could be said to apply strictly to the present question. But even if they did apply, and if it appeared that similar acts had been practised at former periods by the King, without any notice being taken of them, the silence of Parliament, on those occasions, was of itself a sufficient inducement for him to bring forward a measure like the present. It became more and more necessary that Parliament should finally settle this most important question, without which, Mr. Grey conceived, we could not be said to have any constitution at all. He must, however, peremptorily deny that there ever did exist in this country a case like the present. The only case which the Hon. Gentleman could produce, as bearing any sort of resemblance to it, was that of 1776; and even there the circumstances were essentially different. There was no man in that House, Mr. Grey said, who had in 1776 attempted to support the prerogative of the Crown in the manner that had lately been attempted. The only thing asked for at that time, was leave to land troops in Minorca and Gibraltar; but, at present, it was openly asserted, that his Majesty had, by his prerogative, the power to bring them into any part of his dominions. He desired that the Members of that House might seriously consider what an effect the recognition of such principles, or the silence of Parliament respecting them, would have on the constitution, and whether it would not be necessary to come to some determination. If the House objected

to a Bill of Indemnity, he was ready to withdraw his motion, and bring the substance of it forward in any other shape whatever. His only object and his only wish was, that the constitution might be saved. To say that foreign troops were in this country only on account of ill health, and as a place of rendezvous, was absurd. The same pretext might be used by bad ministers, or a vicious Prince, to cover designs the most mischievous and fatal to the constitution. The fact was, that vast numbers of Hessians were landed at Portsmouth and the Isle of Wight, without any satisfactory reason being given for such landing; and when he saw Lord Moira exercising his Hessian army, who could tell what designs his Lordship, in conjunction with ministers, might have in view? Such were the dangers which threatened our country and our constitution! It was ridiculous to talk any longer of the responsibility of ministers; for the very abuses practised took away all the use and advantage of responsibility. It might as well be said, that the King, after having declared war, could declare likewise that it would be too long to wait for the meeting of Parliament, and therefore he should raise money by his own prerogative, because the exigence of affairs required such a procedure! Thus, under that futile pretext of the responsibility of ministers, the most dangerous and despotic powers might be exercised by the Crown.

Mr. Grey declared, that, as long as he should continue to sit in that House, he would never give up the point. He would continue from day to day to bring the question forward under different shapes, until, with the assistance and abilities of his Hon. Friends who sat near him, he should at length be able to effect something for the preservation of our constitution, which there had been so many attempts to destroy. He conceived it to be a point of too much importance for the people to be left in ignorance, whether their liberties did or did not depend on the exercise of prerogative; which, he contended, was totally repugnant to the spirit and practice of the constitution, and the statute law of the land: A prerogative destructive of all the rights and liberties of Englishmen, and by which they might be all overthrown at a single stroke.

The question was then called for, and the House divided; when there appeared,

For the Motion 170—Against it 41—Majority 129.

At a quarter past one the House adjourned till Monday the 17th.

HOUSE

HOUSE OF LORDS.

MONDAY, *March 17.*

Sir Isaac Heard, Garter King at Arms, attended at the bar, with the pedigrees of Lord Courtney, Lord Gage, and Lord Clinton, which, after the usual formalities, were ordered to be entered on the Journals.

Heard Counsel on an appeal from the Court of Scotland : The Rev. Mr. Leslie, minister, appellant, and James Brodie, Esq. respondent.—Ordered further consideration of the case on Wednesday the 19th.—Adjourned.

HOUSE OF COMMONS.

MONDAY, *March 17.*

The Mersey Navigation, Huddersfield Canal, Abingdon Paving, and the Militia Augmentation Bills, were reported, and ordered to be engrossed.

Lower Compton Inclosure and Maze's Naturalization Bills were read a third time and passed.

Twenty Papers relating to Halifax were presented : Ordered to lie on the table, and to be printed.

Mr. Burke moved, That the Managers of the Impeachment against *Mr. Hastings* do inquire into the circumstances which have occasioned the continuance of his trial, and that they report their opinions thereon to the House.—Ordered.

MILITIA.

Mr. Steele brought up the Report of the Committee for increasing the militia by volunteers : He said, that the families of volunteers who entered in the militia should be left on the same footing as those of such as were chosen by ballot.

After reading the report, and the same having been agreed to,

On the question, "that this Bill be engrossed,"

Mr. Baker rose, and observed that the measure did not appear to him to be adequate to the purpose for which it was professedly brought forward. It was said to be a provision against a danger which threatened the country. Nothing could be more clear, than that if the danger was imminent, our force ought to be equal to it ; but the Bill did not appear to him to be of that nature. He had seen a paper, dated Whitehall, 14th of March 1794, which seemed to recommend a general subscription for the purpose of carrying on measures, of which the Bill then before the House was a part. He considered

sidered that paper to be authentic, and for that reason he conceived it to be regular for him to allude to it. He must therefore say, he objected to that measure as an irregular one. Parliament was the only legal organ of the country, through which the people could signify their consent to assist the carrying on of any plan, the expence of which was to be paid for out of the public purse. He admitted that this was a point not immediately before the House; but as something specific respecting it would in all probability be brought forward on some future day, he could not suffer that opportunity to pass without making the observation that he had stated. The measure to which he had alluded could not, in his judgment, be legal at any time, or under any circumstances, but least of all during the sitting of Parliament.

Mr. Serjeant Adair expressed his sense of the irregularity of the measure of raising any public subscription, to assist the carrying on of the purposes of the executive government, independent of the interference of Parliament. There ought, in his opinion, at least to be an Act of Parliament to sanction the measure.

The Chancellor of the Exchequer said, the Bill before the House was only a part of the system which he had opened on a former day in a general manner, as a plan for the internal defence of this country, and for the purpose of enabling his Majesty to employ his regular forces with more vigour abroad. The Bill then under consideration was separately and distinctly for augmenting the militia. It was, he said, in contemplation with the executive power to take other measures which would require the consideration of the House. He did not then exactly and specifically know the whole of what he should hereafter find it his duty to state; but upon the most mature consideration he had been able to give to the subject, he was ready to declare, that the plan which should be found to be the most conducive to the free exercise of the discretion of the House in adopting, and the least likely to be deemed unconstitutional, was that which it was his intention to submit.

General Smith condemned the mode of augmenting the militia proposed by the Bill. The danger was either immediate, or had no existence. If it was immediate, a certain and speedy means of opposing the danger should be adopted, which the present could not be called. If the danger was not immediate, no increase whatever of the militia was necessary.

Mr. Fox declared, that the measure said to be going through the country, by way of a recommendation from his Majesty to the people, to stand forth and assist the executive government with voluntary subscriptions, he had held often, held now, and

was likely to hold in future, to be entirely illegal; and to be a measure most dangerous to the constitution of this country. If the object was to legalize that practice, he was perfectly sure that there should have been a Bill for that purpose. A Bill must pass to authorize the application of such money, even after it was raised, or not one shilling of it could be legally applied: And therefore it would not be satisfactory to him to hear that a Bill might pass in the course of the proceeding. This opinion he had frequently given during the American war; and all he had ever heard upon the subject had not in the most distant degree tended to alter that opinion. Having said this, he must confess, that with regard to facts upon the present case, he was without information: He spoke in that respect entirely from rumour. What had been sent to the Lord Lieutenants of the counties, and what their answers might be, he knew not; but supposing the message alluded to of a recommendation for the opening a general subscription to have been sent, he had no doubt that acquiescing with such a message, and applying such money, without an Act of Parliament, was not only illegal, but highly dangerous. Whenever the subject came forward, he should be ready to argue it on the points just mentioned; and he hoped that the House would not proceed on doubtful points, without first removing all difficulties that stood in the way of the regularity of the proceedings of Parliament.

Mr. Powys admitted, that subscriptions to raise armies without the consent of Parliament were illegal, or for the executive government to proceed on such subjects in any points on which there had not been a Parliamentary sanction: But the House would judge of these points in due time, when they came under their consideration. The only subject then before them was a Bill for the augmentation of the Militia.

The Bill was ordered to be engrossed.

SLAVE TRADE.

Mr. Wilberforce moved, That the Bill for preventing the Supply of Foreign Territories with Slaves, &c. be read a third time.

Lord Sheffield said, that from what he had to observe on the motion before the House, he did not expect to please the Honourable Mover any more than he had pleased him in a former stage of the Bill. He must, however, say, that the present endeavour to hurry this business was shameful and scandalous, and surpassing all bounds of decency. It was well known that the merchants concerned in the foreign Slave Trade were to meet the next day; and, as far as depended on the proceedings

proceedings of the House of Commons, they would lose the benefit of that meeting: Under this conviction he should move, that, instead of the word "now," the words "Friday next" be inserted.

Mr. Wilberforce said, that what he had just heard, was certainly not of a more conciliating nature than what the Noble Lord had been pleased to deliver on a former day; but he was not displeased with it, for he was a little more used to such observations than formerly, and should treat them with more temper. With regard to what the Noble Lord had thought fit to call shameful and scandalous, he must observe, that those epithets, if applied to any thing, applied to the whole House; for in making the motion now before them, he had only obeyed the order of the House. He had nothing to urge upon the motion, the House would determine as it should think proper. He should only say, that if any of the merchants had still further reasons to offer to the House why the Bill now before them should not pass, they had time in abundance for that purpose.

Lord Sheffield explained.

Mr. Fox said, the Bill before the House had been as long perhaps in passing through its several stages, as any other in that or any former session of Parliament, in which the question it involved was equally well understood. What was the case here? The Bill passed a Committee of the whole House. The whole of it was recommitted for the purpose of receiving any amendments to which the House could agree, coming from the merchants and the planters, and others who were known to have wishes hostile to the Bill: For this purpose plenty of time was allowed. He should be exceedingly sorry, not only for the loss of the Bill, but also for the delay of it; because if there was any one thing more important than another for that House to attend to in the execution of its duties, in his opinion it was that of taking care they did not, by negligence and fruitless delays, in matters highly affecting the principles of justice and humanity, bring their proceedings into disesteem, or their intentions into suspicion. He thought that House had very little share in the delay which had taken place in the Parliamentary regulation of the Slave Trade, when Gentlemen recollected that years ago resolutions were carried up from that House to the House of Lords; of which their Lordships postponed the consideration (upon good grounds very likely), for almost a whole session. He had heard much of the new calendar of the French; but he thought the proceedings of the Lords gave us a still more extraordinary calendar. For the whole of the last session, for the trial of *Mr. Hastings*, their Lordships

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Lordships afforded four days, and four hours to each day ! They had put off that trial to a day in April ! They then put off the further consideration of the Slave Trade to a day after that, when it was well known that the discussion of either the one or the other of these important public points must materially suffer. He was anxious that the House of Commons should not contribute to that delay. Let them remember they were going to send the Bill then before them to a House of slow proceedings. A new calendar they all knew had been adopted in another country. But the House of Lords had a calendar still more extraordinary : They had allowed for one great business 48 hours in the year, for the other only 16 ! This was a new mode of calculating time. He should therefore advise the House of Commons to take such measures as that they might not fall under the censure of the Public in the progress of this business.

Mr. Serjeant Adair observed, that the West India Merchants might have called their meeting before. They had not chosen to be heard by counsel, or to examine witnesses in the Committee, and he did not see any ground for further delay.

Mr. Alderman Newnham spoke a few words.

Mr. Dent said, that a few days could not make any great difference ; and when so immense a property as 74,000,000 l. was in danger, it would be worth while to consider for so short a time as to Friday. He wished to know, if the Learned Serjeant had been called on for a legal opinion in a matter of importance, he would not require a few days for consideration. He doubted not but the Right Honourable Gentleman (*Mr. Pitt*) under whose sanction this measure was carried through the House, would soon have reason to repent the support he had given it.

Mr. Francis said, if seventy millions were concerned in this trade, it could not be affected by the Bill, which only went to prevent the supply of the foreign islands with slaves : And for a variety of reasons there ought not to be the least unnecessary delay. The House divided,

<i>For Lord Sheffield's Motion</i>	33
<i>Against it</i> -	74
<i>Majority</i>	41

The Bill was then read a third time, and passed.

IMPRISONMENT OF M. DE LA FAYETTE.

General Fitzpatrick desired the attention of the House to the subject of which he had given notice. He said he should have new circumstances to lay before the House, before he should

call upon them for new proceedings. He trusted that the motion he had to make, would appear to be such as ought to interest the justice, the humanity, and the policy of this country; and therefore he did not much concern himself about the dry question, Whether there was or was not a precedent of the kind on the Journals of Parliament. When the unjust and barbarous imprisonment of a man of distinguished character in the Parliament of France was mentioned in that House, and it was said, that when the King of Prussia had been applied to for the release of M. de la Fayette, and three other state prisoners, he had answered, that they were not his prisoners alone, but the prisoners of the allied powers, without whose consent he could not release them, there appeared such a general expression of disapprobation, that the Right Hon. Gentleman (Mr. Pitt) opposite to him thought fit, formally, in his place, to disclaim, on the part of the executive government of this country, any share in so iniquitous a transaction. He owned he thought such a declaration, made by such a person, in so public and distinct a manner, sufficient to exempt the character of the British nation from the disgrace and odium of having any share in so execrable and barbarous a tyranny, and if an end could be put to the effect of that abominable cruelty by such a declaration, he should not think it either necessary or becoming that House to proceed one step further upon the subject; but as the case now stood, he thought the House ought to see whether it was in their power to take any proceeding, the effect of which was likely to be that this unfortunate person should be relieved from his present deplorable situation. If it were on the ground of humanity only, he should have brought forward the motion with which he should have the honour of concluding; but it was not on the single ground of general humanity that he intended to rest his observations; they should be founded also on justice and on policy; and although some might think that the declaration of the minister did all that was necessary to wipe away the disgrace which would have otherwise been fixed on this country, yet he thought he should be able to convince every man, who heard him, from facts, with which the House were not perhaps acquainted, of the necessity of their interference on the present occasion.

The King of Prussia, upon being applied to for the release of this unhappy person, as he had before observed, returned for answer, that the liberty of that person did not depend upon him alone; that, before he could be released, other powers must be consulted; and that their consent was necessary. If such was the case, the King of England was one of the powers thus alluded to by the King of Prussia, and if the whole

whole of the British nation looked with horror on the proceedings against the unfortunate gentleman in question, he would ask every man who heard him, whether it did not become the House of Commons of Great Britain not to content itself with the mere declaration of the minister, but that they should, as far as their influence and interest were concerned, disclaim, for the people of this country, any share in this infamous barbarity? General Fitzpatrick said, he had had the good fortune, for such he considered it, early to have cultivated the friendship of M. de la Fayette: He had retained it ever since, and had no reason whatever to repent or change his sentiments with regard to that officer; he had always found him to be a man of the strictest honour, and in every respect a worthy and a respectable character. He could safely challenge the strictest scrutiny into his conduct during the whole of those trying scenes, in which he had been engaged in common with every other Frenchman, and he was confident that, after the closest examination, he would be found to have been constantly, uniformly, and steadily the friend of good order and the law, as established, and the promoter of the peace and happiness of his countrymen.

The House would give him leave to examine the political character of M. La Fayette in the French Revolution. At the first period of that extraordinary event, there was hardly a man in this country who did not admire it. Any person who had considered the affairs of France, must see that there were four classes of men in that country, who had appeared in the course and progress of the revolution: The first was divided into the two broad distinctions of royalists and republicans; the royalists were subdivided into those who were advocates for the ancient despotism, and those who were the advocates of a limited monarchy; the republicans again were divided into those who wished for a popular form of government by a representative assembly, and those who, professing democratic principles, had established the present tyranny which exists in that country. The latter, deriving all their ideas of government from clubs, soon sunk under the furious tyranny of that authority; and, without tracing minutely the progress and circumstances of the revolution, it appeared evident that of the latter class the mass of the present rulers of the affairs of France was composed. He would put a question: In which of these classes or descriptions of men were we to seek for that conduct which was most congenial to the spirit of the constitution of England? Most clearly to that, which favoured the establishment of a limited monarchy. Of this M. La Fayette was a distinguished member.

It might be said, that the first constitution of France most materially differed from the constitution of England, and was so unskilfully made, that it contained seeds of dissolution and principles of self-destruction, and must, sooner or later, have terminated either in absolute monarchy, or an entire republic. To this he was ready to assent; but then it must be observed, that those, who formed it, fell into mistake from error of judgment; that there were among them men of the best intentions; and that, in forming their constitution, they took the constitution of England for their model, although their country had not the good fortune to follow the example they had chosen, with accuracy and correctness. In this description of men, and one of the first in the consideration of the Constituent Assembly of France, was General La Fayette and three others; and who, for being so, were now in one of the dungeons of the King of Prussia. Was this, or was it not, true? Was this, or was it not, just? Whatever might be the opinions of men on the present affairs of France, and the system at this time followed there, he would venture to ask, What had been the general feeling of the people of Great Britain on hearing of the destruction of the Bastille in Paris? To this destruction M. La Fayette had contributed; and although it was attended with some popular excesses, he did all he could to prevent them; and for so doing, he remained at this hour a prisoner in a dungeon of one of the bastilles of the King of Prussia.

M. de la Fayette was appointed to command the national guard of Paris, and to lead the French revolution; a revolution which at that time was consonant to the general feeling of all good men who heard of it, and particularly so with the people of this country at large. If we followed M. de la Fayette in every step he took, from that hour down to the time of his flight, we should find that he withdrew himself from the Jacobin club, whom he detested for their popular excesses, and their usurpation of power; we should find in him a steady friend to peace, to order, general tranquillity and happiness; a supporter of the existing law; a fixed foe to anarchy and confusion. He believed he might defy any person to shew a single instance to the contrary. It was true, indeed, that his authority proved inadequate to the object that he aimed at achieving; but he let no opportunity pass without exerting himself in favour of good order and submission to the law, even at the hazard of his own existence. M. de la Fayette's conduct on the 5th and 6th of October had been much misrepresented by his enemies, and stated against him as a crime; but, if examined impartially, it would be found to have been highly

highly to his credit. At that time commander of the national guards, the instant he heard of the tumult at Versailles he hastened there, in spite of threats of assassination, and, by unparalleled exertions of zeal and courage, he suppressed the violence of an outrageous multitude. The first thing he did was to induce the troops to renew their oath of fidelity; and then he proceeded to prevent every popular excess, and with his own hand rescued fifteen of the King's guard, whom the populace had marked for destruction. It was to M. de la Fayette that all the Royal Family of France owed their existence for a single hour after that tumult. The Queen had publicly declared it was to him she owed her life: Of this, General Fitzpatrick said, there were in London at that hour persons ready to bear testimony, that they heard that unfortunate Princesses say so.

The only point of blame against him that had ever been urged with any degree of confidence on that occasion, was, that he neglected his duty after this event. The truth was, that having conceived an opinion that he had perfectly restored tranquillity, and provided for the safety of the Royal Family, and having been sixty hours without sleep, and fifteen actually on watch, worn by the weather and the turbulence of the multitude, and exhausted with fatigue, he suffered himself to be persuaded to throw himself, undressed as he was, on a bed, to get some repose for an hour or two. The mob, during this interval, renewed their attack; and his enemies asserted, that he had retired with a view to suffer this renewal; a calumny which every circumstance tended to refute. Instantly upon his being informed of this second outrage, he again went to repress their violence, and succeeded. If we look at him afterwards, we shall constantly see him the defender of good order and the law, the opposer of tyranny and oppression, from whatever quarter it arose. In April, when the unfortunate King had declared his intention of spending his Easter at St. Cloud, the mob rose and opposed it, though the King had undoubtedly a legal right to go there. M. de la Fayette, unable to succeed in procuring his Sovereign this gratification of his desire, resigned his command of the national guards, and was universally solicited to resume it; the people and the Royal Family uniting in the same request. So much was the General beloved.

After this the King and Queen made their escape from Paris. In that regretted and ill-judged event, La Fayette was no participator. He dispatched a messenger after the Royal Family; and he could not possibly do otherwise, circumstanced as events were at that period; had he not done so, his own destruc-

destruction would have been inevitable; and Paris would again have been devoted to the most dreadful outrages. His messenger, however, did not overtake the Royal Family, for they were detained at Varennes before the messenger arrived. When the Royal Family arrived again in Paris, it was entirely owing to the zeal, the courage, and the magnanimity of La Fayette that they were not destroyed immediately. It was owing to him that Paris itself was not a scene of the utmost confusion. He had the boldness and magnanimity to declare in a debate in the National Assembly, "that if any violence was offered to the King, he would, at the head of the national guards, proclaim Louis the XVIIth King." This once more silenced the fury of democracy in Paris, and restored order and submission to legislative authority. After this the Jacobin faction endeavoured to put an end to the freedom of the whole National Assembly; they were again opposed and repressed by La Fayette. On the 17th of July, in the Champ de Mars, he repressed an insurrection against the constituted authorities, by force, and again overthrew the machinations of the republicans, who offered him the highest honours that the new republic could bestow, if he would join them; but his answer proved him to be a determined enemy to oppression, and convinced them that he was not a man to be tampered with, to do any thing contrary to his conscience, and the constitution as established by law. No man perhaps had ever sacrificed more of his favourite pursuits in conformity to the dictates of his honour.

This great officer might possibly be charged with having discovered a disposition for turbulence and disorder, and it might be said, that his principles were of a disorganizing nature, because he had declared, that resistance in the people, in certain cases, became their duty. It was true he had said so; but he never had, nor ever intended, to apply it to any thing but tyranny, against which he so often hazarded his life, and what, to a mind filled with the ardour of military glory, was still more dear, his popularity and fame. In short, in his character nothing was to be found but pure love of order, and the personal security of the Monarch, who, he always told the French, ought to be the object of their love, as the restorer of a free constitution.

He then conceived a project, which he communicated to the King, to consult on the effect of going to Montmedi. The King expressed perfect confidence in La Fayette, but, unfortunately for himself, did not accept of that offer; if he had, the result, in all human probability, would have been in his favour. At all events, it could not have been more unfavourable

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avourable to his Majesty than what actually afterwards happened.

The republicans then continued their violence down so late as the 5th of August, five days previous to the dissolution of the monarchy. During all that time, the unhappy Monarch, distracted by a variety of counsels, and a rapid succession of sinister incidents, had delayed the plan. At last he adopted it, and dispatched a messenger to inform La Fayette of his determination; it was, however, too late, the monarchy having been dissolved. Commissioners from the Convention came to La Fayette, offering him any terms, and every honour which might flatter his ambition, if he would join their party, but he refused. What however was his conduct? He resolved to stay no longer at the head of the army, nor would he lead them against his country; he nevertheless thought it his duty to place it in a state of security, which he effectually did; in so much that General Clairfait, thinking the moment of retreat would be a good time to attack the enemy, found the French so advantageously posted, that he thought it best to desist. When Commissioners came to him, when with his army, by the authority of the Assembly to remove him from his command, still he was faithful to his trust and to his duty, and he consigned these Commissioners over to the civil power, determined to support the constitution and the monarchy, which he had pledged himself to defend. Immediately after this he passed the frontiers, with a determination of not joining the enemy of his country—and this was the cause of his dungeon and his sufferings. If he had deserted his country as a traitor, he would have been received with open arms. If, instead of consigning the Commissioners who came to him to the civil power, to which the mildness of his disposition induced him, he had delivered them over to the enemy of his country, we might have seen him at large, and his virtues extolled. If he had carried away with him the military chest, he would no doubt have received rewards.

But although he was determined not to support the democratic fury of the ruling power of France, the generosity of his nature would not suffer him to betray them. He passed to a neutral country, and on neutral ground (the bishopric of Liege) was taken prisoner. He was invited by the promises of officers in the service of Austria, who assured him he should have a free passage to any place to which he wished to proceed: Under the confidence of this he went, and, with those officers who accompanied him, to the number of upwards of forty, was made prisoner. He was then transferred to a prison belonging to the King of Prussia. He was offered his liberty on condition
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of joining the army of the French princes: This he refused; and then the officers of the King of Prussia claimed him as a prisoner of their master, not as a prisoner of war; because, when he was transferred, of all the other officers who accompanied him, forty were immediately released; himself and three others only, were detained, who had been members of the Constituent Assembly of France. He was confined specifically as a prisoner of state.

General Fitzpatrick said, it would ill become him at that time to hazard a decisive opinion on the law of nations, but he could not help saying, that if it were even consonant to the law of nations, he should think it hard to confine a man in one nation for a crime alledged to have been committed in and against another nation; or that a Prince of any country should make a state prisoner of an individual in his dominions, for the share he had taken in the legislature of another country; for all the offence with which La Fayette stood charged, was his conduct in affairs which related to the internal government of France; and his confinement, from that day to the present moment, had been such as no human being could justify. He himself, and the other three gentlemen, were kept in dungeons so unwholesome and filthy, as to be fatal to their health, and hourly dangerous even to their existence; debarred of communication with each other; and the only favour they had was the liberty of breathing fresh air for one hour in a day! Perhaps he might be told, that he was dwelling on circumstances on which there could be but one feeling, but that the whole idea of our interference was improper, and that therefore his motion to address his Majesty upon the subject must be improper also. It was to that part of the subject he should solicit the attention of the House.

First then, he must maintain, that we ought not to countenance the imprisonment of any man for the part he might have taken in the National Assembly of France; for that, as far as regarded the objects of this country, his Majesty had no idea of the subjugation of France by external force. This country was most solemnly bound to protect M. La Fayette, if the proclamation of his Majesty, issued on the 29th of October last, was not delusive. That proclamation offered security and protection to all who should throw off the yoke of a sanguinary anarchy, and declare for a monarchical form of government. M. La Fayette had fled from anarchy, and had sought protection under what was called a regular form of government. Englishmen were therefore bound to defend him on the one hand from anarchy, and on the other from despotism. If we did not interfere upon this occasion, what reliance could the royalists

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alists place upon our promises and proclamations? They had been told, that the allies were disunited and embarrassed; would they not believe it, if we did not act upon some common principles? Nothing had done our cause so much mischief in France, as the injustice and gross impolicy with which we had treated those who left the republic. They who remained saw that they had no hope but in the success of the republic. Our conduct had converted a great number of our friends; and, he believed, it was now almost too late to remedy the evil. The principles of M. de la Fayette had been objected to; but every man ought to be judged by his actions, and not by his words. M. de la Fayette had held the right of resisting unlawful government, and he had exercised it not only against despotism, but against the people, when they had overthrown their lawful constitution. He must say then, that unless that declaration, published in his Majesty's name, was, from the beginning to the end of it, a piece of mockery and delusion, there could be no pretence on the part of this country to join in the imprisonment of these four gentlemen, on the charge on which they were now detained by the King of Prussia; for, by so doing, we take to ourselves our share of the disgrace of that atrocious barbarity. What did the declaration of his Majesty mean, if it did not mean a promise to afford protection to all the friends of the constitution in France in the year 1789? What had been promised to the people of France on our entering Toulon? Precisely what he had already said; protection to all the French who should declare in favour of the constitution of 1789. Let the declaration speak for itself. [General Fitzpatrick read the material parts of the declaration made on behalf of his Majesty to the people of France, and to the inhabitants of Toulon specifically.]

M. de la Fayette, and the other three gentlemen in prison by order of the King of Prussia, he said, came exactly under the description of persons in this declaration declared to be intitled to his Majesty's protection and good offices. He desired the House to be aware of the probable effect of a general understanding going forth over Europe, that this country was not sincere in this declaration, which must inevitably be the case, if we did not mark our disapprobation of the imprisonment of these four gentlemen, the defenders of the constitution of 1789, and which his Majesty professed so much anxiety for restoring. It would necessarily follow, that if we shewed indifference on such a point, there was no use in flying from the anarchy of France to other powers for protection; for that the effect of seeking the protection of a *well-regulated state*, was to be liable to the same, or even worse tyranny, and to be

kept in a dungeon; this could only tend to establish the tyranny and fury of the French republic.

It had been said it was difficult for us to negotiate upon such a subject. Where was the difficulty he wished to know. The Noble Lord, at present minister at the Court of Berlin, was sufficiently ingenious and skilful, he was sure, to be able to find out some happy moment to intercede with his Prussian Majesty in favour of the unfortunate captives. When, for instance, he was soliciting his Majesty to accept a sum of seven or eight hundred thousand pounds from this country, he might, perhaps with effect, state the general wishes of the English nation.

He could hardly suppose that the conduct of M. La Fayette in America could be an objection to this motion. He had been, at the commencement of that war, only 19 years of age. In entering into it, he had done no more than his duty in support of his country and his King. Every one in the House would have been happy if the life of Louis XVI. could have been saved by our interposition; and the conduct of that Prince in the American war would surely not have been thought of as an objection; and if so, such an objection ought not to be admitted in the present instance. A generous and brave enemy always forgave and forgot animosities when the contest was over. There could be no impropriety in the application which he would propose. He had heard that a French gentleman had been sent out of this country at the instigation of the Court of Vienna; if this were true (but for the honour of our executive government he hoped it was false) we had a right to interpose. If it were true, his Majesty's ministers had betrayed the confidence reposed in them by the House, by using a power which was intended for the safety of the constitution, to gratify the personal resentment of Princes. How much more noble would be our intercession for mercy than their's had been for revenge! It would certainly please the natural benevolence of his Majesty's mind; it would be a noble example of a free country endeavouring to rescue the victims of anarchy and tyranny; and it would be an amiable exertion of a Christian virtue, which would do honour to his Majesty, and which, as a pious Prince, he ought to be desirous of displaying, if it were only to present a contrast to the immorality and atheism said to prevail in France, and to confound and falsify the invectives of democrats against kings in general. It was said, that kings were cruel and vindictive; he hoped and trusted that they were not actuated by vindictive motives. The illustrious President of the United States of America, he understood, designed to make an application in
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favour of his unhappy fellow-citizen. That illustrious character saw, with regret, the fate of his friend and companion in arms, into whose mind he had instilled his principles; but it was to be feared that the intercession of the United States of America would have no great weight with the King of Prussia. "Let us then (said he) display to the world the advantages of a free constitution, and induce others to adopt it. Let us shew to the world, that where there is true, well-regulated, wisely tempered liberty, there are to be found in an eminent degree justice, benevolence, charity, compassion, generosity, and all the sentiments and feelings that do honour to our nature." Having summarily collected the heads of the different arguments* he had urged for his motion, he concluded with moving, "That an humble Address be presented to his Majesty, to represent to his Majesty, that it appeared to that House, that the detention of General La Fayette, Alexander Lameth, Bureau De Puzy, and Latour Maubourg, in prison by order of his Majesty's Ally the King of Prussia, was injurious to his Majesty and the cause of his Allies; and humbly to beseech his Majesty most graciously to intercede in such a manner as to his royal wisdom shall seem most proper for the deliverance of these unhappy persons."

Colonel Tarleton seconded the motion. In doing so, the Colonel professed to decline entering into the general circumstances of French affairs, of the causes which led to the various scenes which took place in that unfortunate country, or of the effects which followed them; or to expatiate upon the early virtues of M. La Fayette. The great exertions which that unfortunate man had made, in order to crush anarchy in the bud, and to prevent confusion; his unparalleled attachment to his Sovereign, and his veneration and zeal for the promotion of the cause of genuine liberty, were, he said, too

* Without meaning in the smallest degree to question the veracity of General Fitzpatrick, or lessen the credit of his narrative, we think it right to state, that there are in town French ladies of the first quality (one of whom remained with the unfortunate Queen in the utmost confidence, attachment, and friendship, till the 10th of August 1792, and was saved most miraculously from the massacres of the 2d of September of that year), who utterly deny the whole of the General's statement, as far as relates to La Fayette's conduct respecting the Royal Family of France. They conceive and declare La Fayette to have been officiously eager to assume the appearance of acting upon motives of personal love and regard to the King and Queen, while his measures were substantially hostile to their interests. Possibly this difference of opinion arises from a want of knowledge of the springs and principles of policy, upon which, in times so critical and dangerous, M. de la Fayette thought it best to colour and conduct his actions, having nevertheless the safety of their Majesties sincerely at heart.

universally known to require praise from him, or to derive lustre from any eulogium that he could pronounce. He should forbear to enter into a minute investigation of that infamous combination of tyrants, the treaty of Pilnitz, which, at a time when France was about to establish and enjoy something like a temperate and rational freedom, in exchange for their former tyranny, roused, by its unjustifiable aggressions, the spirit of enthusiasm, inspired the rage of madness, and gave rise to all those scenes of horror which have since desolated at least half of Europe. At this period, General Fayette found himself at the head of the arms of France, by the unanimous voice of his country, for the purpose of repelling those invaders. To prove the General's sentiments at this period, the Colonel read an extract of a letter written by him from the entrenched camp of Maubeuge, upon the occasion of debates held upon the question, what degree of power should be entrusted to the King? In this letter he stated, that he was for preserving the Monarchy strictly hereditary as heretofore; that the King should be free; that he should be at liberty to chuse his ministers, and not have the creatures of a faction forced upon him against his will. These he declared to be his sentiments, which he found it necessary at that time to avow, lest the uncertain events of the war should hereafter put it out of his power to do so. This letter, when it reached Paris, immediately excited the resentment of the Jacobins against M. de la Fayette, who now first began to rear their head, and produced a formal accusation of Fayette before the Assembly. Upon this occasion what did that General do? Instead of marching to Paris at the head of the army, which, attached to him as they were at that period, he might easily have done, and made every thing subservient to his will, he set off, and presented himself almost unattended before the Assembly. He there so well defended himself against his accusers, as to call forth their unanimous acquittal and approbation; and thus for a while truth obtained a triumph over villainy and treachery. This, however, was but of short duration. Upon his return to the army, he quickly found his enemies had not been idle, but, taking advantage of his absence, had corrupted the troops, and poisoned their minds against the man whom they so lately adored. After the unfortunate 10th of August, he wrote a letter to his army, desiring them to support the cause they had sworn attachment to, and to chuse between their King and Petion. When he found that during his journey to Paris, his army had been corrupted by Jacobin commissioners, and was unwilling to comply with his wishes, instead of abandoning his principles, and taking advantage of the

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the situation he held, he resolved to sacrifice every thing to the preservation of them, and to fly his country, which he could no longer serve as those principles dictated. He therefore departed from France with a few followers, intending to go to Holland, and from thence to America; that asylum of liberty and peace. In going through a neutral territory, he was intercepted by an Austrian patrol, and taken; where he could neither be considered a prisoner of war, nor a traitor. The Colonel, therefore, hoped, when these facts were so evident, that, in justice to the present age, and to our Prince, we should interfere, and rescue an illustrious exile, whose sufferings would be recorded on the page of history as an eternal stigma on the King of Prussia. The rigour, the severity, the cruelty that had been exercised towards that unfortunate person, were such as might well be said to *draw the tear of pity down Pluto's iron cheek!* He was at first treated with some share of lenity, but afterwards with all the ignominy and cruelty described by his Hon. Friend. From this detail he conceived the injustice and cruelty which M. de la Fayette had experienced would be manifest to every Gentleman present. The Colonel said, he would next desire the House to consider the impolicy of such conduct; a conduct that could find no parallel in any of the histories of the reigns of the most cruel and cold-blooded tyrants: And he hoped, that at a time when we were treating with Prussia, possibly for the purpose of parting with our treasure, that we would interfere, and endeavour to rescue M. de la Fayette from those hardships and horrors, which he had unmeritedly been doomed to suffer; and that his Majesty's ministers would lose no time to *wipe away the stains that blurred the ermine of Majesty.* He could, from his *personal knowledge* of the unfortunate General during his residence at Paris, say much of his virtues, his integrity, his attachment to the cause of true and temperate liberty, his tenderness to his wife and children, his universal benevolence, and his admiration of this country. He had neither countenanced nor participated in the crimes of Danton or Robespierre, but supported his King, and fell a victim to the cause of royalty: But he too well knew the generous sympathy of British bosoms towards unmerited sufferings, to urge the matter more strongly on their feelings upon this occasion; he therefore contented himself with seconding the motion of his Hon. Friend upon the grounds he had already stated.

The Chancellor of the Exchequer said, that, considering the circumstances of the case that had been brought forward for discussion that night, he did not feel it necessary to consume much of the time of the House. From the view in which he conceived

conceived the question, he was perfectly convinced that it required but a very few moments to state the objections that occurred to him; objections that must inevitably have occurred to the mind of any man who had paid the least attention to the subject, and that must of necessity have operated to the full conviction, and complete satisfaction, of every person so considering the question. He saw by no means any necessity to follow the Hon. Gentleman through the wide field of argument, and through the long range of discussion, that he had taken. That Hon. Gentleman had expatiated, and expatiated most ably and eloquently, upon the character of M. La Fayette. That was a point which he would not dispute with the Hon. General; but at the same time he must say, that he could not agree with the Hon. Gentleman on many of the topics which he had dwelt upon so forcibly. He would never admit that the four persons who were the objects of the present motion ever were the friends of true liberty, or deserved well of their country; nor did he understand that their detention by a great and independent Sovereign (the King of Prussia) was in any degree a departure from either the rights of war or the law of nations. The plain and simple question was, whether any case was made out, whereby this country was implicated, so as to be bound to interfere, from motives of justice, honour, or policy?

It was extremely natural for the Hon. Gentleman to have expressed himself in terms of warmth, in support of the character of a man with whom he had previously been in strict habits of friendship; but the opinion which he entertained of the conduct of the person alluded to, was directly the reverse of that of the Hon. Gentleman. He could not be induced to admit, that the cause that had been espoused by M. La Fayette, or that the principles that he and his friends had acted upon, were such as deserved well of Europe. If any extraordinary rigour, cruelty, or severity, had been exercised towards those persons, it was to be lamented; but if the circumstances were not made out sufficiently to justify condemnation, the accusation totally failed, be the ground of it ever so lamentable. What were the circumstances of the case? That a person, who had the command of an hostile army, had, without any direct or indirect proposition on his part, thought fit to withdraw himself from that army, and had been found within the post of the enemy, that very enemy against which the army he commanded were acting. He would put it for the consideration of the House, whether this case could be deemed a violation of the law of nations? He had heard it asserted, that those persons were detained at the instance of a neutral country.

country. If so, the question was not as between two hostile nations, but between a neutral power and either of those hostile nations; that is, not between M. La Fayette, a subject of an hostile power, and the King of Prussia, but between a neutral power and the King of Prussia. The main and simple circumstance was that of which the Hon. General was perfectly aware; and to remove the difficulty, he had exerted his powers, and displayed his talents, with great dexterity; he meant, whether this country could consistently take any measure with a sovereign and independent power, by way of interfering in a matter in which we had no participation, and for which we were by no means responsible: Would such an interference be any thing short of setting up ourselves as the guardians of the consciences of foreign states? The point was so obvious, that he was totally at a loss for arguments to enforce it. Was it to be contended, that Great Britain ought to hold such a line of conduct towards all the nations of Europe, that we were to suggest the errors and the crimes that might, or might not, be committed in a nation with which we had no particular connexion? To this extent no man could possibly argue—Upon what principle then was this country to adopt an interference?

The Hon. General had said, that he believed the King of Prussia had replied to a requisition that had been made to him, "that he could not set at liberty those persons without the consent of other Powers." In answer to this, the Chancellor of the Exchequer said, he would repeat what on a former occasion he had stated, namely, that this country had no participation in the matter one way or the other; nor did he know upon what authority this declaration was attributed to the King of Prussia, other than as it was stated in that House. With respect to the reply of the King of Prussia, as it had been represented by some persons, speaking of himself personally, he knew of no such reply. But, even for a moment admitting it to be a fact, it could not bear the construction that had been put upon it, *because, at the period that the circumstance of the arrest of those persons took place, Great Britain was not a party in the war*: We acted then as a neutral power. If the reply of the King of Prussia had any reference, it must, of necessity, have had reference to the Powers that were then combined, and could not, by any mode of reasoning, be extended to Great Britain; consequently it did not belong to us to interfere. This was a sufficient answer to what had been said on that point.

Another special ground taken was, that M. La Fayette, and the other gentlemen who were confined with him, from
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the principles that they had espoused, and the conduct that they had pursued, were, agreeable to the declaration of his Majesty, entitled to his Majesty's protection. He begged leave, however, to remind Gentlemen, that Lord Hood's declaration was addressed to those persons that might be disposed to come as friends, and that might be willing to offer themselves as supporters of the genuine cause of liberty. He would ask any man, whether that was the case in the present instance? M. La Fayette, and those who were along with him, did not come upon those terms; they did not come as friends: So far from it, La Fayette, without any explanation, (the very man who a few days before was the commander of an hostile army!) came into the post of the enemy. There was no analogy in the present case. But, even admitting the principles to be the same, how did the case stand? The declaration was addressed to those that might come and say, "Our country is at war with you: We do not wish to be at war with you: We are ready to support the cause of our Monarch, to assist in the restoration of peace, and to crush anarchy: Under these circumstances, and for those considerations, we ask your protection." Comparing those two propositions, they were as different and as opposite as in the nature of things they possibly could be. On the simple ground of the impropriety of adopting the measure proposed, which was so unusual and so extraordinary, he would, therefore, rest his opposition to the motion, considering the proposed address to be equally improper and unnecessary.

Mr. Fox said, when his Hon. Friend had submitted the motion to the House, he had little doubt in his own mind that it would have received the opposition which it had experienced. It was difficult to say, which was most extraordinary, that this country should hesitate to interfere, or that the Court of Berlin should exercise such abominable tyranny and oppression. That this country should be thought unfit to apply to another for the exercise of justice or humanity, was a doctrine so strange and so new, that the bare mention of it was sufficient to expose the fallacy of the assertion. The Chancellor of the Exchequer, *Mr. Fox* said, had seen so much difficulty in answering the particular arguments of a speech on which he had justly bestowed the praise of great eloquence and ability, as to feel it wise to oppose the motion on as general grounds as possible. The speech of his Right Hon. Friend was not more remarkable for ability and eloquence, than for truth and solidity of argument. If ever there existed a man who, in a great and arduous situation, amid the conflict of opinions carried on all sides to extremes, could claim the merit

rit of having steered a temperate and middle course, uninfluenced by the violence of the moment, and directed by free conceived opinions, that man was M. La Fayette. Of the treatment which he and his fellow-prisoners had experienced, and the pretext well known to have been alledged for continuing that treatment, *viz.* that they were the prisoners of the allied powers, not to interfere in their behalf, was to be implicated in the odium, and handed down to posterity as the accomplices of the diabolical cruelty of the Prussian Cabinet. If in any point his Right Hon. Friend, who made the motion, had failed, it was in not painting that cruelty in colours sufficiently strong. How were these unfortunate gentlemen confined? In separate apartments, that they might not enjoy even the sad and the melancholy consolation of communicating their sorrows to one another. Suffered only to breathe the fresh air for one hour in the day, confined in subterraneous caverns, in which the only light came from a confined and dreary court, where the execution of malefactors, or other prisoners, were the sole spectacles: This he knew to be a fact as much as a man could know any thing which he did not immediately witness, and he would take upon him to assert, that it happened specifically at Magdebourg. Yet even this condition was capable of being aggravated. Though debarred from communication with one another, they had at one time the satisfaction of knowing that they were all within the walls of the same prison. Two of them were, however, left at Magdebourg, and two carried to other places. So severely was this felt, that M. La Fayette implored it as a boon of the King of Prussia, that M. Latour Maubourg might remain in the same prison with him; but this boon, poor as it was, was denied him.

It had been asked, what we were to do in such a case? He maintained that the customs of civilized nations presented no obstacle to our interposition. In the case of Sir Charles Agill, private applications were made, from this country to a Court with which we were then at war. The good offices of the Queen of France were solicited; they were graciously granted, and proved effectual. America, the ally of France, yielded to an interposition in behalf of humanity; and what prevented his Majesty from employing his good offices in the cause of humanity also, especially with an ally, on whom he had so strong a claim for attention? But if no such instance were to be found, the nature of the war in which we were engaged, and the particular situation in which we were placed, might require and would justify a new mode of proceeding.

Was the sort of treatment he had described, fit for him who (though he was not inclined to enter into encomiums upon any man, yet as far as he knew M. de la Fayette) was entitled, from his virtue and moderation, his patriotism and astonishing bravery, to a respect from the bitterest enemy, that the comparison of his excellent qualities or the exertions of his duty might create? If he was taken prisoner in war, he must be supposed to be a prisoner of war; and why were the ordinary privileges attendant upon that distinction denied him? Was he to suffer particularly, and in opposition to the usual customs, from the elevation of his rank? If he was not to be considered as a prisoner of war, he must be deemed a prisoner of state. How could this be reconciled? Had he combined with the internal enemies of the King of Prussia to overthrow the ruling power, and introduce the spirit of democracy into his kingdom? The applications of a British message might carry more weight, and would reflect more honour upon the national character, than we were at present aware of. Had not the King of Prussia declared that M. La Fayette was the prisoner of the powers combined against France, and that he and his friends could not be released but by the general consent of those powers? Did his Majesty's ministers not believe that this declaration had been made by the King of Prussia himself, and by his ministers, to various persons both publicly and privately? In answer to this, it was said, that we were not engaged in the confederacy against France at the time when those unfortunate gentlemen were made prisoners. By this declaration, however, from which we were not excepted, part of the odium was thrown upon us: And there was no way for the Combined Powers to clear themselves from it, but by each of them declaring that they disavowed the whole proceeding. The ministers had, indeed, said that we were not parties to it; but this was not enough, there ought to be an authentic declaration by the King; to which every Englishman might refer, in any part of the world, and clear the character of his country from so foul a reproach.

If the national honour demanded this, it was equally called for by policy. We had offered friendship and protection to all the well-disposed French, who should declare in favour of monarchy; and to the people of Toulon we had granted that protection as far as we were able, on condition of their declaring for monarchy, as limited by the constitution of 1789.

The Chancellor of the Exchequer had denied that La Fayette was in the same situation with those to whom friendship and protection had been offered; but, by every fair and candid inference,

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ference, he must clearly be allowed to stand in that situation. If we had promised, and actually given, protection to those who declared for the constitution of 1789, must it not follow in the mind of every man, not a cavalier, that the persons who had supported that constitution, at the hazard of all that was dear to them, were to be protected also? If M. La Fayette, instead of being buried in a Prussian dungeon, had been, like many others, concealed in France, and had come forward on the proclamations at Toulon, could we then have refused him protection? If he had even been in a French prison, within the reach of our force at Toulon, and had solicited his release, could we have refused attempting to release him, even at some risk, supposing the attempt to have been consistent with military prudence? In the name of common sense, then, why refuse at this time to make a much easier and more safe effort in his favour? All the general reasons alledged against it, admitting them to their full extent, ought to yield to the strong claim of humanity. These reasons must necessarily rest on the general policy with respect to the war, and of that could there be a doubt? Had not the imprisonment of La Fayette and his friends, prevented many from joining the standard of royalty, which we wished to rear in France? It was improper to mention names; but he knew many, and ministers he was sure must know many more. Without entering into detail, the very reason of the thing must shew, that when Frenchmen were balancing in their minds, between declaring for the allies, or joining the ruling party, the fate of La Fayette must operate so far as almost to decide their choice. Did ministers any longer entertain the hope of conquering France, or establishing any particular form of government in it, but by the assistance of Frenchmen? He knew the professions they held out to Frenchmen, *viz.* that all who repaired to the standard of monarchy were to be protected; and that monarchy being re-established, they were to be left to temper it with such modifications as they should think fit. Of all the forms of monarchical government, did ministers mean to prescribe exclusively that of 1789? If they did, why had they not said so? Why had they given ground for believing the contrary? Frenchmen, in this case, must suppose either that our declarations were all as faithless as those of the King of Prussia and the Prince of Saxe Cobourg, or that our allies thought differently from us; that all the supporters of limited monarchy were to be proscribed, and the advocates of unlimited monarchy only protected. Was this latter form of government now so popular in France, that any considerable party could be formed for it, or was it avowed to be a favourite with us?

Ministers knew, that wherever they had found the means of communication with the people remaining in France, the old system of government was an object of universal detestation and abhorrence; and that, even after Lord Hood was in possession of Toulon, and Louis XVII. proclaimed, it was with great difficulty that the people were prevailed upon to lay aside their National cockades, and to substitute the white for the three-coloured flag. The imprisonment of M. La Fayette and his friends, was therefore injurious to the success of the war in which we were engaged; and, as parties in that war, we had as indisputable a right to advise our allies respecting every thing that tended to promote or impede the common cause, as to consult with them on the conduct and plan of military operations. In this point of view, Mr. Fox contended that the case of M. La Fayette could not be viewed with indifference, and that we were justified on every principle, by which the intercourse of independent nations was regulated, in the application proposed.

The mode in which M. de la Fayette and his friends were taken, was a point which ought to be fully considered; and having it in his power to state distinctly the circumstances, he should trouble the House with a recital. Those four unfortunate gentlemen, whose melancholy fate was under discussion, with their attendants, to the number of forty, met a few men in a neutral state, who, in point of number, were so much inferior, that any idea of apprehension from force was out of the question. They sent to the Governor of the town to know whether they could have permission to pass through that town to Holland, and they were answered in the affirmative. It was by this consummate and direct *treachery*, this villainous breach of faith, that these unfortunate men were trepanned into captivity; and the pursuance of the conduct had been carried on with the same injustice as it was begun; infamous and diabolical in the commencement, and aggravated by the execution in the continuance.

If it was said that they were taken as prisoners of war, they must, in that case, be considered as all equally prisoners of war, and ought to have been treated as such. Had they been so considered? By no means: All of them, except four, had been released; and this not by any distinction founded on military rank, those only being detained who had been Members of the National Assembly. The rules of civilized nations allowed their parole to prisoners of war; but the Prussian ministers, feeling the degradation into which they had brought themselves in the eyes of Europe, pretended that they were not prisoners of war, but called them prisoners of state. Could any

any man point out the part of the law of nations by which the subjects of one independent nation could be made prisoners of state by the sovereign of another, for offences committed, or supposed to be committed, in their own country? It could be done by no law, but the law of tyrants, which contemns all principles, human and divine; law directed only by the will of man, which, when adopted as a rule of action, too surely degenerates into tyranny. The Bishop of Liege, on whose territory they were stopped, it was said, had a right to claim them by the law of nations. They who said so, knew that the Bishop of Liege, though he had the right, had not the power, and therefore it was so much the more incumbent upon us to interfere. From views of policy it was requisite that the measure proposed by the motion should be promoted. If the minister had any hopes of accomplishing his end by means of the Royalists, would it not be for the national benefit to have that man released, whose aid and abilities might co-operate to attain such an object? Had it been effected long ago, it might have produced the most salutary consequences; and the capture of Toulon, aided by his operations, might considerably have advanced the views of the allies previous to the period that it happened.

If any man thought the imprisonment of these unfortunate gentlemen was no injury to the common cause of the allies, that it was not a stain on the national character, or that it was likely to gain us converts among the French, he might vote against the motion. Those who saw in it the reverse of all this, must give it their support. Unless it were said that ministers had already applied to the Court of Prussia, or meant to apply, he could see no reason for postponing the motion. The three gentlemen included in the motion with M. La Fayette, had all supported the limited monarchy. Of a man so well known as Alexander Lameth, it was unnecessary to speak. M. Latour Maubourg, on the return of the Royal Family from Varennes, had so conducted himself towards them as to be mentioned with particular expressions of gratitude; and M. De Puzy was known to be so acceptable to Louis XVI. that he was always selected as the person to communicate with him on matters relating to adjusting the government. There was one circumstance, Mr. Fox said, which he was aware had hurt M. de la Fayette in the public opinion. He had been accused of having instigated the Royal Family to escape, of having been privy to their flight, and having afterwards betrayed them, and caused them to be arrested at Varennes. If this circumstance were founded in fact, most certainly no odium could be too great, no obloquy could attach
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a sufficiently just reprehension for so horrible a piece of duplicity; but the proof of his innocence was so incontrovertible, so positive and direct, that the mention of it must stamp an indelible impression on the mind of every man, and clear him entirely from so foul a calumny. The witness of his innocence was the unfortunate and ever-to-be-lamented Queen, Marie Antoinette, who, when upon her trial, and when she knew her own fate to be inevitable, was asked whether Fayette had connived at their escape? and answered positively, that he was totally ignorant of it. If this convincing testimony should not be sufficient, the mind must be confused indeed to desire stronger evidence, or evidence that could give more internal satisfaction! Upon the whole, the question resolved itself into this simple and narrow consideration: Those who think the treatment of these unfortunate gentlemen no injury to the common cause, would vote against the present motion: On the contrary, those who saw in these cruelties a violation of every principle of justice, humanity, and prudence, would give it their support. If ministry have done any thing on the subject, then they would only have to consider whether what was done was rightly done; if they meant to interfere, then it would be proper to wait; but if neither of these was the case, it behoved that House to consider whether they were not called on to consult their own feelings, and endeavour, by an honourable interference, to promote the success of that cause which they professed to support. Upon these grounds he declared his assent to the motion of his Hon. Friend.

Mr. Burke declared it to be his opinion, that when there were no precedents on the books, no circumstance similar to the present, the House ought to be extremely cautious in departing from the policy of their ancestors. They saw before them, within a short space of time, the fall of a great monarchy, the destruction of numbers, and the imprisonment of 200,000 persons. He was glad to remark, from what had fallen from some Gentlemen in the course of the present debate, that they were now convinced of the danger of those principles of universal but fictitious benevolence which forbade any interference in the affairs of a foreign state, or the conduct of a sovereign independent power. Having, however, never adopted those principles, he had no difficulty in declaring, that if a proper case of interposition was established, it would be perfectly consistent with the honour and dignity of this country to interpose; but it could not be contended that the case of M. de la Fayette was of that complexion, when we had not deemed it requisite so to do for the purpose of

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preventing the numberless massacres, murders, and revolutions, by which France had been desolated and destroyed. He considered the Hon. Gentleman, who brought forward the motion, as actuated by generous motives: *Tantum infelicitum dilexit amicum*. That House, Mr. Burke said, would be stepping out of its way to pay attention to such a person as M. La Fayette, at a time when so many other objects of pity passed before their view. When Priam was left naked on the shore: When Hecuba was dragged from prison to prison, treated with unparalleled turpitude and baseness, and at length barbarously murdered: When we were to look at the calamitous situations of virtuous and respectable characters, and of matrons, in whose houses we had once been hospitably treated; and, above all, when La Fayette might be considered the origin and the author of all these calamities, he thought that *illustrious exile*, as he was called, though, in fact, the outcast of the world, deserved the fate he had met with. Only one example of any such interference had been adduced, the case of the interposition of the late Court of France, which was now so frequently denominated despotic and tyrannical, in favour of Sir Charles Apgill; an interposition which was chiefly rendered effectual by the exertions of the late unfortunate Queen, who, in the exercise of her power, had ever displayed the utmost benevolence and benignity, and whose firmness, intrepidity, and resolution, in meeting her fate, would form an everlasting contrast to the tyranny, cruelty, and baseness of those by whom she was murdered.

Mr. Burke adverted to the state of the prisons in France, and particularly at Paris; and observed that there were upwards of 6000 prisoners, men, women, and children, lying on straw, and perishing for want of the necessaries of life. These unfortunate persons had been guilty of no crime. La Fayette, he contended, was the principal author of all their misfortunes, and of all the misfortunes that had befallen France; and, therefore, however much other Gentlemen might pity him, Mr. Burke said, he certainly was not the object of his compassion. Instead of lamenting the condition of that man, he mourned over those crowds of truly illustrious exiles who were wandering over Europe, and to support whom the charity of the Public was every-where taxed; exiles, who, deprived by him, in the first instance, of their titles, were robbed of "*that which not enriched him, and left them poor indeed!*"

While these nobles were in this situation, stripped of that consciousness of rank which was the last consolation of the unfortunate, they were called upon to pass all these over with neglect, and turn their whole attention to Citizen Fayette!

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This extraordinary affectation of sorrow for the lot of one culpable individual was ill-placed, ridiculous, and preposterous. It surely was not the business of this country to set up for a general arbiter of the law of nations. Every nation had a right to claim her own citizens; but if she did not do so, no foreign state had a right to interfere and officiously make any such demand. Did France claim him? Yes, as a traitor, whom the rabble, that he had been the instrument in elevating to power, were desirous of sacrificing! No nation claimed him. His conduct in our contest with the Americans we were required to forget; and he was very much disposed to do so; because, if a contrary principle were pursued, wars would be eternal: La Fayette's behaviour, however, in entering as a volunteer into the American service, before any hostility had taken place between this kingdom and France, was not surely of such a nature as to entitle him to any extraordinary favour; and as to his fondness for military glory, what could be said but, that he who wishes to live by the sword, must likewise run the risk of dying by the sword?

With regard to the right this man had to rebel against his lawful sovereign, he would say nothing, but that the ruin, of which he had been the promoter, had at length overwhelmed him; and he trusted that his downfall *would be a lesson* to mankind, how any of them attempted to *overturn the fabric of civilized society*, lest they should also become the victims of their own rashness.

The Right Honourable General had admitted, that the constitution of 1789 could not exist, and yet had praised Fayette for pulling down a building which had remained for 1400 years; and had spoken of the purity of his intentions, when it could not but be recollected, that he had brought back the King and Queen from Varennes, had imprisoned them at Paris, and thus sown the seeds of republicanism which were to ripen to his own destruction.

Under these circumstances, Lord Malmesbury, at the court of Berlin, seizing upon one of the "*mollia tempora fandi*," which, as an able negociator, he must be supposed to be well acquainted with, was thus to address the King of Prussia: "Thou dark and sanguinary tyrant! thou diabolical monster! give up M. de la Fayette to the King my master, and there is a subsidy to you by way of ransom for so doing." But if he should refuse to do so, we must console ourselves with reflecting, that while, in one city, in the *halcyon land of liberty*, 6000 prisoners are confined, it required all the tyrants in Europe to club their power together to make out four prisoners. Kings, indeed, ought to be cautious how they let such birds

out of their cages. Louis the XVIth had let Fayette fly to America, and he had returned and imprisoned the master who had given him his liberty. It might be our interest not only to forgive injuries, but to bestow favours; but with this individual we have done; and as we shewed no enmity, as little were we obliged to bestow any friendship.

M. La Fayette, Mr. Burke said, never supported royalty; he was the first who led an army of *Sans Culottes* against that king who had released him from a prison, and sent him to America to command his armies. Not a man in France would join in the cause for releasing him now. He was not graceful to any party. He would not have been received, even had he been sent to Toulon. The Toulonese had no idea of the constitution of 1789; they consisted of many descriptions of persons, some royalist, some republicans, and others who had no idea of a government at all. It was absurd then to say that these persons, inhabiting a sea-port town, with no respectability, and dreading a guillotine, which they had been expecting every day, could be supposed capable of settling the constitution of France. It might as well be said, that the bawdy-houses on the Point at Portsmouth were capable of forming a constitution and government for England. It was wise then to leave matters as they stood when Lord Hood went there, and let the King of France, after he should be established, settle the constitution. The Toulonese did not at that time demand Fayette, but they demanded Monsieur (the brother of the King) as Regent. England had done him (M. de la Fayette) no injury, and was not obliged to do him any service, but leave him where he was. Like another Sampson he pulled down the great fabric which protected him, but had not strength to raise it up again; and that circumstance, he trusted, would serve as a lesson to all persons in future, who should attempt to rebel against their lawful Sovereign. That which he raised up in the room of the fabric he had levelled, was pregnant with the seeds of republicanism and ruin; and this was the man now to be released.

The present, Mr. Burke said, was the most extraordinary application he had ever heard made. It was made for the author of so many horrors, which seemed to be a summary of all that had ever taken place before in the world!—*Altera editio multo brevior et emendatior*. And of all these horrors, there was no circumstance of barbarity (except the murder of the King and Queen) more atrocious than the massacre of Foulon and Berthier. The Abbé Foulon, son to that person, was now in London, and he often declared his anguish in these words: I'll be revenged of La Fayette; it was he that had my father murdered;

dered; it was he who tore out and devoured his heart." "I would not," concluded Mr. Burke, "debauch my humanity by supporting an application like the present, for such a horrid ruffian."

Mr. Grey said, he had never heard a speech with more pain than that of the Right Honourable Gentleman who had just sat down. His respect for the Right Honourable Gentleman's character and abilities, as well as for the dignity of the House, made him extremely sorry that subjects of so serious and important a nature, should be treated in the manner in which that Gentleman had thought fit to treat the question. He regretted that the Right Honourable Gentleman could not, upon any occasion of late, divest himself of that indulgence in invective, which he had exercised so much, whenever he could make France, or any thing connected with France, the subject of it. He was concerned for his common humanity, and, under these impressions, he declared, he must reprobate the levity of treating with ridicule or lightness, the causes of men who were groaning under affliction. Having the honour of being engaged in a common cause with him, he could not avoid contrasting his present conduct with what he had never before known him to be capable of.—The adding insult to injury was too distressing; and he was the last man whom he could have supposed capable of this conduct.

After the long and desultory harangue, which from the beginning of the Right Honourable Gentleman's speech had consisted of nothing but a violent invective, some part serious, and other parts consisting of levity, but ill adapted to the magnitude of the object, *Mr. Grey* said, he should not trouble the House long, but he could not suppress his sentiments, and he must trust to the indulgence of the House for the mode of his expression. He denied that such an interference as that proposed by his Right Honourable Friend was in any way admitting a right to interfere in the internal government of another country: On the other hand, he considered this country as bound by every tie of honour, humanity, and justice, to do all in her power to procure the release of General La Fayette from the most unheard-of, oppressive, and tyrannical usage, that had ever stained the history of the most despotic times; and were we to neglect interfering to the utmost of our power, he should think himself warranted to say that it was giving a deep and permanent wound to the confederacy in which we were engaged.

It was not the individual character of M. de la Fayette which called for the interference of the nations. Instead of indulging his spleen with strictures upon an unfortunate man,

who was unable from the tyranny of others to vindicate himself, the Right Honourable Gentleman might have learned this lesson, that for the purpose of extricating the national character from aspersions which attack her in common with other nations, this kingdom was induced to exonerate herself, and endeavour to clear up the darkness which was cast upon the reputation of others.

Among the numerous and unfortunate instances which the Right Honourable Gentleman mentioned, was one in which he had said, that this gentleman had given up the Abbé Foulon and his brother to the mercy of the rabble, who committed the dreadful purpose which was so much to be lamented. If, indeed, the case were so, it were much to be lamented; but the circumstance was so unlike the general character of the man, that he must have better authority than his, before he could give any implicit confidence to it. Was it a crime in M. Fayette not to have been able to restrain the fury of the Parisian mob? An English mob had committed similar outrages a little better than two years ago, and no person was charged with not having been active in preventing it. It might have happened thus with M. La Fayette.

If ever justice and humanity were violated, it was in the instance of the treatment of M. de la Fayette. It was therefore a cause for our interference; and we should gain by it an exemption from suspicion, as long as he should remain in custody. It might inform us of the objects of the war, which were not expressly declared by the manifesto of the King. Mr. Grey said, he would put the question to the minister, Did he believe that he could find a sufficient number of Frenchmen who would be willing to assist in establishing the old constitution, that unqualified system of tyranny? As to the proclamation made at Toulon, he would maintain that it was an engagement on the part of this country, to give the French the constitution of 1789; although the Honourable Gentleman (Mr. Burke) had used a very indecent comparison to prove that no constitution could be given to the people of that town. He would desire that Lord Hood's proclamation might be examined, and there it would appear that his Lordship had pledged the faith of the British nation to support that constitution, which they insisted on obtaining before they would surrender the town. Was that the case? If he had not been very much misinformed, though he had reason to believe the authenticity, we had acted as barbarously, after we had got possession of that harbour, as the republicans had acted, before we entered. The *guillotine* had been as active as in any other part of

France; but our declaration promised, that this constitution of 1789 should not only be kept up while we were there, but also that it should be firmly established, and rendered permanent. Can the Gentleman ask what claim La Fayette has now upon the King of Great Britain, when those circumstances are maturely weighed? Are not our interests deeply involved? Are we not engaged as principals in this war? And will there not, upon such an elucidation, be a perfect understanding of interests?

If the King of Prussia should issue a declaration, as we have done, to endeavour to establish the old constitution, or any other manifesto, for the purpose of seconding his own views, would not the minister of this country be perfectly justifiable in making a separate peace, consistently with the declaration of maintaining the constitution of 1789? How then can we hesitate to interfere in the fate of this very man, who has been the grand operator, and in part the inventor of that very constitution which we are so anxious to establish?

The Right Honourable Gentleman had said, that if M. de la Fayette returned to France, he would be treated as a traitor; most sincerely did he think so. This he considered as an eulogium upon his character, instead of a stigma. He was no friend to the anarchy that at present reigns there, but the framer of the plan proposed to them by us. In these considerations, and the exacting an explicit declaration from the King of Prussia, the policy of the measure was evident; and it became the duty of every man, from the lessons which this eventful period had taught us, not to suffer governments to grow debased: By want of strict caution and guard upon their conduct, individual security was destroyed, and the foundations were reversed.

The Chancellor of the Exchequer said, that Lord Hood, when he saw, on the part of the people of Toulon, a disposition to communicate with him, had told them, that if they would make a candid and explicit declaration in favour of royalty, he would afford them assistance and protection. They declared in favour of monarchy as established by the constitution of 1789, and begged that he would take possession of the place in trust for Louis XVII. He did so; and to restore the place at the conclusion of the war to Louis XVII. was the extent of the engagement into which Lord Hood had entered.

Mr. Fox declared, that he conceived the fact to have been exactly as the Chancellor of the Exchequer had stated it, which did not alter the circumstance, that this country had bound itself to what had been described by his Hon. Friend.

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Mr. R. Thornton said, he neither agreed with those who represented M. La Fayette as the cause of all the evils that had befallen France, nor with those who held him up as a great character. But he thought it was for the honour and the interest of the nation, that we should interpose for his release; and he knew of no better mode of doing it than that now proposed. It was not unprecedented; for the House had agreed to interpose in behalf of the late King of France, although we had no alliance with France at that time. The conduct of the Court of Berlin he could not help considering as unmilitary and unmanly.

Mr. William Smith said, that he was impelled to lay in his claims to argue against our interference with the internal government of France. We were actually falling into such error by suffering La Fayette to be punished for the part which he had taken in the revolution of France. It gave him, he said, deep concern, to find, that in the lapse of five years, nothing had occurred in a country struggling for its freedom, that could induce the nation, the most free in the world, to interfere in its behalf. Had that been the case, probably those crimes which had been imputed to the French never would have been perpetrated. He concluded by declaring that this country will suffer severely if the present motion were not carried.

Mr. Ryder said, the interference mentioned by Mr. Thornton had never taken place. When Gentlemen held up La Fayette as a great character, they did so either to conciliate the favour of the House, or to recall approbation of that system which M. de la Fayette had supported. Of the treatment La Fayette had received he would give no opinion; but although we promised protection to those who declared for the constitution of 1789, in order to obtain allies, it did not follow that we were bound to protect the authors of that constitution; and therefore he should vote against the motion.

Mr. R. Thornton said, the instance he had mentioned was exactly in point: The House was unanimous with respect to the measure itself, and dropped it only on the consideration that to carry it into full effect might injure the cause it was meant to serve; and that all the good expected from it would be obtained by its being publicly known that the House had been unanimous.

Mr. Burke said, he spoke not of La Fayette's character, but of his actions.

The Solicitor General said, that the character of La Fayette and the humanity of the House were entirely out of the question,

tion, which must be decided on grounds of policy only. If we were to interpose in this instance, we must interpose by the same rule in every instance, where the conduct of other powers violated humanity. He entered into some distinctions, to shew that although the constitution of 1789 had been mentioned at Toulon, we were pledged only to the restoration of monarchy in France.

Mr. J. S. Cocks said, he could not suffer *Mr. Smith's* expression of sorrow, that our government had found nothing to approve in the beginning or progress of a system, which had for its object the destruction of all comfort and public liberty, and which attempted also to deprive its wretched victims of the hopes of futurity, to pass unnoticed. *La Fayette's* cruelty, in his opinion, was manifest, first, from his continuing to act under such a system; and the proofs of it were as clear as could be expected under such circumstances.

Mr. Fox said, he had seen many emigrants at Brighton, who were at Paris when Foulon and Berthier were murdered; their concurring testimony was, that *M. La Fayette* did all he could to prevent it; and they alledged as a reason for abandoning their country, that he was not able to prevent such dreadful outrages.

Mr. Smith said, it was impossible that *Mr. Cocks* could have put such a construction upon his words, if he had taken the trouble to attend to them.

Mr. Jenkinson said, he was at Paris at the period alluded to, and the general impression was, that although *La Fayette* was not accessory to the murders of Foulon and Berthier, he had not done all he might have done to prevent them. One of them was brought from the country by a more numerous armed party than it was supposed could have been employed without *La Fayette's* knowledge; and they had put straw into his mouth on account of something he had said of a famine about fourteen years before (that if the people wanted bread they might feed on straw).

Mr. Burke said, he had the authority of the Abbé Foulon, a member of the Parliament of Paris, for charging *La Fayette* with the murder of his father and *M. Berthier*; and this authority was corroborated by various other well-investigated proofs.

Mr. Martin returned thanks to the Gentleman who had brought forward the motion, as it gave him an opportunity of demonstrating his abhorrence of the confinement of this unfortunate gentleman. He declared that his severe punishment was the conversation of all parties throughout the country;

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and he trusted that the House would vote for the motion; not less through motives of mercy and humanity, than through motives of sound policy.

Mr. Stanley declared, that he was in Paris at the time adverted to by several Gentlemen who had spoke. He must, in justice to the unfortunate La Fayette, declare, that he not only did every thing in his power to prevent the circumstances that had happened, but risked also his own personal safety. He would therefore vote for the motion.

Mr. East said, the motion, if agreed to, would be to charge the executive power of another nation with cruelty, and would probably risk the loss of an ally. We were not bound to instruct other states in the law of nations. He could not concur in the panegyric on La Fayette, who had been the first to publish, that insurrection was the most sacred of duties, and had reduced the power of his Sovereign to a mere shadow. He would never give a vote that tended to throw discredit on the war, on the success of which our all was at stake.

Mr. Courtenay insisted, that, instead of giving offence to the King of Prussia, he would be pleased to have this country interpose for the liberation of his prisoner. He had disclaimed wishing to keep him in confinement, and did it merely to please the confederates. He thought therefore this country would do the King of Prussia a favour in removing him from the situation of a royal gaoler. It was wonderful we did not feel the same delicacy and the same dread of giving offence to all the neutral nations; to Denmark, Sweden, Genoa, &c.

All the evils in France were declared by an Hon. Gentleman to have originated with M. Fayette; although the most of them had taken place since he left that country. It might as well be said that Hambden was the author of all the misfortunes that happened in England after his time; and because a furious Parisian mob, in spite of M. de la Fayette's remonstrances, had committed several excesses, he was charged with them all. Just with as much truth and propriety might his Majesty's ministers, and Lord Amherst, the then commander in chief, be accused of committing the riots that happened here in the year 1780. Notwithstanding these crimes of La Fayette, in stirring up mobs, the virtuous Marat and Robespierre denounced him for having fired on the people. The testimony of the Queen of France was a high eulogium on him, and did away every calumny.

The French revolution, which Fayette was charged with having brought about, was a circumstance that afforded universal pleasure; and, at the taking of the Bastille, he and an Honourable Gentleman near him (*Mr. Burke*) were then in
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Paris, and his Honourable Friend declared he was highly pleased with that event. It was now the fashion to reprobate every thing that sounded like liberty, and to attribute to it every thing criminal; while every act of despots was admired and extolled, just as if Kings and the Lord's anointed alone had an exclusive privilege or patent to commit crimes.

Mr. Courtenay declared, that he considered democratic insurrections to be useful: From the nature of things they could last but a short time, and, like hurricanes and thunder-storms, they cleared the stagnant atmosphere; and he would rather be tossed about in the wildest blasts and tempests of democracy, than breathe for an hour the still and pestilential breath of regal despotism.

Mr. Whitbread, jun. said, that all our proceedings at Toulon were calculated to give the French people the impression that we were desirous of establishing the constitution of 1789 only, and this was confirmed by the declaration of Langara at Toulon, which announced to the French, that the constitution of 1789 was in full activity at Toulon, and therefore inviting the friends of that constitution, from the example of this place, to confide in the combined powers. What then could be said in defence of that scandalous treatment of M. La Fayette and his associates, whose efforts had all been exerted for that constitution which was offered to the French? He most warmly approved of the motion which had been made by his Right Honourable Friend with so much generosity, candour, and eloquence. He thought that the conduct of our ally the King of Prussia to M. La Fayette would rouse the indignation of every manly breast; and it was a melancholy reflection that even with this conduct before us, we could only engage his continuance in the war by paying him a subsidy. It was however material to the House to know what this subsidy was to be: The Right Honourable Gentleman, when the question was put to him on a former night, had not denied the fact, though he had chosen to withhold all explanation from the House on the subject. He trusted, however, that this subsidiary treaty would be laid upon the table as soon as it should be concluded, and not withheld as the treaties were last year, till the two or three last days of the session.

The Chancellor of the Exchequer said, that when called upon to say whether a negotiation was not going on for a subsidiary treaty with the Court of Berlin, he had thought it his duty to remain silent.—The Hon. Gentleman, however, had chosen to construe this silence into an acknowledgment that such treaty was not only in negotiation, but actually concluded. He would not however depart from his silence. He would just say, in answer to the observation of the Honourable Gentleman,

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tleman, "That if it should be thought right, for the more vigorous prosecution of the war in which we were engaged, to advise his Majesty to enter into further treaties of subsidation with the powers of Europe, he certainly should consider it as his duty to make an early communication of such treaties to Parliament."

The House divided upon General Fitzpatrick's motion; when there appeared,

Ayes 46—Noes 153—Majority 107.

Adjourned.

HOUSE OF LORDS.

TUESDAY, *March 18.*

The Marquis of Downshire took the oaths and his seat.

Mr. Hobart, and other Members from the Commons, brought up the Penny-post and several Private Bills. The Bill for abolishing the Slave Trade was ordered to be printed.

TREATIES.

The Earl of Guildford rose, in pursuance of the notice he had given, to call their Lordships' attention to a subject of great national importance, *viz.* the Treaties entered into by this Country with Foreign Powers; and in order to proceed regularly, he would first desire that they might be read. The titles of the several treaties on the table were then read, and are as follow: The Treaty for the Extension of Commerce between the Empress of Russia and his Majesty; the Treaty of Alliance with the Empress; the Treaty with the Landgrave of Hesse Cassel, for subsidizing 8000 of his troops; a second Treaty with the Landgrave, for supplying his Majesty with an additional corps of 4000 men; a Treaty with the King of Sardinia; a Treaty with the King of Spain; a Treaty with his Sicilian Majesty; a Treaty with the King of Prussia; a Treaty with the Emperor of Germany; a Treaty with the Margrave of Baden, for subsidizing 754 of his troops; a Treaty with the Queen of Portugal; and a Treaty with the Landgrave of Hesse Darmstadt, for subsidizing a corps of 3000 men. Before he entered upon the merits of his motion, the Earl said, he would state his reasons for bringing it forward, and troubling their Lordships on the subject. In a late debate he had been much alarmed to hear Noble Lords (the Duke of Portland and Earl Spencer), to whose opinion great deference was due, as coming from men to whose attachment to civil liberty and the constitution he was ready to bear testimony, rest a main part of their argument in support of their voting against the

motion of a Noble Earl near him (the Earl of Albemarle), on the treaties on the table; and one of the two Noble Lords in question had laid peculiar stress on its being specified in the treaty with the Landgrave of Hesse, in what manner and in what proportion his troops were to be paid, should there be occasion to bring them into this kingdom. He could not admit that to be any argument in favour of the prerogative of the Crown, exercised in a manner the most alarming to the jealousy of Parliament, and especially of that House, as it was not only their Lordships' undoubted right and privilege, but their bounden duty, at all times, and under any circumstances, as hereditary advisers of the Crown, to examine every treaty entered into by his Majesty, and to declare their opinions upon the same. If such an argument meant any thing, it must be under the supposition that it had been stated to Parliament previously, either that the troops were on their passage, or that they had landed, and that Parliament had given its consent to their being kept in the kingdom. He trusted that he should not hear on that night, any person contend, that it was not the province of that House to examine into the present subject. If he was to say that it was a branch of the Royal prerogative, with which we had no right to interfere, he must be prepared to combat the latter with the spirit and the practice of the British constitution; a proper regard for which made it his duty to bring forward the motion which he should have the honour to submit. There was no one prerogative of the Crown to which that House were so much bound to attend, and give their advice upon, as that by which the King had a right to make peace and war. Under this consideration came all treaties and negotiations which had a tendency to produce either the one or the other, and with this view it was that he had called the attention of the House to those on the table. He contended that they had a right to advise his Majesty not to enter into treaties that might endanger the safety or tranquillity of the country.

Differing as he did with the majority of the House on the subject of the present war, it was natural to suppose that he was no friend to the treaties on the table, which were defended by those who contended for the justice and policy of that war. Any discussion, however, on that last particular, he had no intention to enter upon that day; he would confine what he had to say to the treaties merely. The points he wished to establish were these: That the obvious tendency of our engagements was to support and forward the unjust and romantic views of other European powers to conquer France; that they were in no respect favourable to the real interests of this country; and that

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that they had been entered into upon principles that the King's ministers had previously and repeatedly disavowed. In answering these, it became necessary for a moment to recur to the opinions universally held in and out of Parliament upon the propriety of our remaining neutral as to the disturbances in France two years ago; that neutrality had then been thought by every man, who considered at all, the wisest and best policy that this country could possibly follow; it afforded general satisfaction while it lasted, for no one supposed that we should ever be rash enough to interfere so far in the internal affairs of another country, as to dictate a government for a great and independent people. All of a sudden things take a new turn, and we find ourselves deeply involved in the war, and acting as principals in a contest in which we have little or no concern. That our interference was not for the interests of the country, he believed few would deny; and that it was against the opinion of the King's ministers, avowed at the time by them, and approved by all, would appear from their own conduct. So little did they think we had any thing to do with those disturbances, that the failures that took place after the Duke of Brunswick's first manifesto, the French getting possession of Savoy, and the capture of Mentz, appeared by their conduct to be considered by them as matters of perfect indifference. The change, therefore, that had taken place, and which occasioned our interference, first by an armament which forced a declaration from France, and afterwards created those engagements which led us into the war, must arise from a total change of system and views, and a subversion of that neutrality which would have been, what it was at first thought to be, the wisest, the best, and the most honourable part for this country to have acted.

Upon a reference to the Journals, his Lordship said, he found numberless instances of the interference of Parliament, in a constitutional manner, respecting treaties. In some, that House or the other had addressed his Majesty, not to suffer treaties in negotiation to be concluded; and in others had proceeded on different grounds. He would begin with adverting to two treaties; the first the treaty of Utrecht; and the second the treaty of Aix-la-Chapelle; in both which cases the House had entered into particular and distinct resolutions. Previous to the treaty of Utrecht, Parliament addressed the Crown, desiring her Majesty, in the tenth year of Queen Anne, not to conclude a peace, while Spain was likely to devolve into the hands of a prince of the House of Bourbon. Another treaty on which Parliament had founded a proceeding, was respecting the free navigation of the American seas.

His Lordship mentioned various other instances, and said he had contented himself with stating the precedents without a comment, as it was sufficient for his argument to shew merely that what he meant, before he sat down, to offer to the consideration of their Lordships, was not new in its nature, and therefore not improper to be brought forward. One branch of the prerogative which had been asserted to exist (but the existence of which he positively denied), was the right of landing foreign troops in this kingdom; though it might not entirely destroy practical liberty, it inevitably defaced every vestige of theoretical liberty in this country.

The treaties upon their Lordships' table might be classed under three heads; those that were subsidiary—those of a more general and federal nature—and lastly, that anomalous one with the King of Sardinia, which bore no analogy or resemblance to any that had taken place in diplomatic history. As to the first class, those subsidiary with Hesse Cassel, Hesse Darmstadt, and the Landgrave of Baden, he confessed he had the least objections, because he thought subsidiary treaties, if a proper use was made of them, might be of essential service, both in times of peace and war—in times of peace, because they enabled us to lessen our internal force, and thereby were a sort of standing army kept up without any of those dangerous consequences so much and so justly dreaded from keeping a standing army in this country in times of peace, and at the entire will of the executive government—so much for them in times of peace. In times of war, the service that may be made of them, if properly used, was obvious to every body; but he denied that in the present war a proper use had been made of any one of those treaties on the table.

With regard to the second class: The treaties with Prussia, Austria, Russia, and Spain, they were certainly different in their complexion, and different in their object; though he believed each of those Courts proposed to itself a new and distinct object. He objected to these treaties strongly, on account of the clauses which they contained, binding us not to make peace but upon such terms as were consistent with the ambitious views of those powers, and still more from their nature respecting our conduct towards neutral powers. Had they contained a clause to prevent neutral powers from giving such aid to France as might be dangerous to the contracting powers, they might perhaps, be entitled to have been reckoned wise; but if that clause gave the confederate powers a right to act as they had done with regard to Sweden and Denmark, and in another way to Genoa, Tuscany, and Switzerland, it would open a precedent for more tyrannical oppression than
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had ever occurred in the most arbitrary times of the most despotic powers in Europe. With regard to the last, that most extraordinary treaty of all, the treaty with the King of Sardinia, which might be considered as a phenomenon in diplomacy, it was in every way new, unaccountable, and unprofitable; and it was impossible that any good could ever arise from it to this country. He was perfectly at a loss with what description of treaties it ought properly to be classed, and he was yet in doubt whether those who signed it understood themselves to what they had subscribed their names, and could tell what was its true meaning. Upon the face of it we had stipulated to pay the King of Sardinia, confessedly a weak power, a subsidy of 200,000*l.* *per annum*, for keeping 50,000 men in arms to defend his own dominions. Did any man imagine that natural causes would not have produced this effect? Besides the 200,000*l.* to be paid annually to the King of Sardinia to defend his own dominions, we were obliged to furnish him with a fleet, which must considerably weaken our naval strength at home; and what was worst of all, we had bound ourselves not to make peace till Savoy, and all the places he might lose by a war with France, were again in his possession. Was it not notorious that Savoy and Nice had been captured by the French, before we brought it necessary to lavish away the public money in so useless a subsidy? Was it supposed that the King of Sardinia, from motives of self-defence, would not have felt prompt and eager to protect himself? Reason was pointedly against the treaty with Sardinia, which bound us to engage for every thing, and receive nothing in exchange.

The Earl said, he had no intention to enter at large into the grounds of the war, whether just or unjust, politic or impolitic; but he could not help saying, that the whole of the treaties into which we had entered, did not one of them seem directed to obtain that object for which we had professed to have engaged in the war. Had the Noble Lord, who signed the treaty with Sardinia, such an abject opinion of the activity of the Board of Admiralty, as to think that, upon a proper suggestion of the necessity of a fleet in the Mediterranean, they would not send it out, without the country being actually bound thereto by treaty?

With regard to the treaties with the other powers, we had acted upon a very impolitic plan, we had engaged ourselves to continue in a war until all the territories which might be conquered from them should be restored. Was there any necessity, in order to engage those powers to permit us to subsidize one, to lend our arms and assistance in the common cause, in the case of others, to tie ourselves down by particular treaty and engagement? The object for which we had affected to
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enter into the war, and the grounds which ministers held out to the nation at large for engaging in it, he contended, had been totally neglected; in fact, the treaties were not more censurable for their contents than for their ommissions, particularly with regard to the security of Holland. Was there any thing in the conduct of Russia and Prussia in the partition of Poland, or the conduct of the House of Austria in its late proceedings, that amounted to a guarantee for the future safety of the United Provinces, though Holland was the only power on the continent where liberty and independence were of any material consequence to this country. He did not think it any proof of the sagacity or foresight of Administration to depend on the wild and chimerical politics of Joseph II. for the protection of the frontier against France. The battle of Jemappe should have taught them the dangerous consequence of a dismantled frontier.

He was aware, his Lordship said, that the present proceeding might be assimilated to the attempt to dissolve the general confederacy against Louis XIV.; but before the conduct of those who thought with him should be compared to the conduct of Lord Bolingbroke and his friends, it would be necessary to shew a similitude between the confederacy of the present day against France, and that against Louis XIV. in the reign of Queen Anne. When we say the present is a confederacy, there the similitude ends; the confederacy of that day was to prevent that despotic prince from too great an acquisition of power; the object of the present confederacy was, to impose a government, by external force, upon an independent nation. As well might we compare the paltry successes of the last campaign, to the brilliant victories of the Duke of Marlborough and Prince Eugene. His Lordship maintained the inutility of the several treaties in every point of view, and insisted on their inadequacy to obtain any real advantage to this country, repeatedly asserting, that the objects of the several allies were all of them essentially different. He read his motion, and said, though it might be argued that it was no more than a proposal to separate ourselves from the grand confederacy which had been formed in Europe, and that there never was but one precedent for such a separation, he insisted that the case was entirely different, and could not be so argued upon. We were then engaged to prevent the union of France with Spain, and check the ambitious views of the House of Bourbon; whereas now we were busily fighting their cause, and endeavouring to raise the drooping head of the House of Bourbon, the *proper*, the *natural*, and the *steady* allies of the illustrious House of Brunswick! From the Proclamation of Lord Hood at Toulon, which stipulated for the

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constitution of 1789, he contended that this was undeniably the fact; and from thence he inferred, that ministers must have changed the object they meant to obtain by this war; or, at least, it was fair to conclude, that it was widely different from those arguments they held out to the people to induce them to enter into it. He concluded by moving the following Resolution:—"That it is the opinion of this House, that his Majesty has entered into engagements, which have the obvious tendency of promoting the interests of other nations, in which this country has no concern, and motives which have been repeatedly disavowed by the King's ministers."

Lord Hawkebury rose to reply. He admitted that all the first part of the Noble Earl's argument was constitutional and correct. All our law books, the uniform tenour of the precedents, records, and entries, to be found in the Journals of the two Houses of Parliament, supported it. Indeed, no doubt could be made that Parliament had a right to examine and decide upon the policy, wisdom, and expediency of every treaty with a foreign power entered into by his Majesty. Admitting all this in its fullest extent, his Lordship said, he nevertheless saw not any good grounds or fit occasion for the motion. The two first instances which the Noble Earl had selected, of the interference of Parliament with respect to foreign negotiations, and which he had relied on, had been rather unfortunately chosen, since in neither point could the advice of Parliament be followed, it being found then necessary to conclude the treaty directly contrary to such advice. The Treaty of Utrecht, it was well known, had been concluded, and a prince of the House of Bourbon was left in possession of Spain and other important territories. As to the treaties with the Landgraves of Hesse Cassel and Hesse Darmstadt, and the Margrave of Baden, the Noble Lord had himself partly admitted the necessity of them. With regard to the Noble Earl's objections to the other treaties, he would ask the House, was it wise, in such a war as we were now engaged in, not to seek the alliance of the other powers? The necessity of the measure, as well as the policy of it, was so obvious, that he was sure it would strike their Lordships. So satisfied was he himself of the wisdom and policy of forming treaties of alliance and subsidy, that he heartily wished there were more of them on the table, being convinced that the more the better. He should rejoice if there was not a neutral power in Europe.

The Noble Earl had said, that the present conduct of Gentlemen who thought with him, might possibly be assimilated to the conduct of Lord Bolingbroke, in his attempt to break the
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confederacy against Louis the XIVth; but the Noble Earl had asserted, that there was an essential difference between the present confederacy and that in the reign of Queen Anne; upon a more minute investigation, the difference, Lord Hawkesbury observed, would not be found to be so great; that confederacy was for the purpose of preventing the acquisition of territory by France; so was the present; their object, in their unprovoked aggression, was to acquire new territories, and to introduce into the territories so acquired, their new system of anarchy.

Great Britain had remained contented and at rest in perfect neutrality, while France was only engaged in intestine quarrels; but when the conduct of the French assumed a different and more alarming appearance, when the Low Countries were invaded, when Holland was in imminent danger, it became necessary for Great Britain to consider how nearly the danger was brought to her own door; especially as in the seizure of Nice and Savoy, and the conduct of the French respecting those territories, it was seen what was to be apprehended from their success in the field. By the adoption and enforcement of principles of the most dangerous kind, the French had threatened the destruction of order and government to every neighbouring nation; and as by conquest they might have spread those principles, the putting a stop to them became a matter of concern to all Europe. The same infamous maxim they had adopted at home, they would have endeavoured to have carried into effect in other countries; and what they had perpetrated among themselves, they would have enforced wherever they got footing; viz. putting every thing in a state of *requisition*. He begged their Lordships to take notice of the word, it was of the utmost importance, since requisition, with them, meant nothing less than the *seizure and destruction of all property*, both public and private. They had carried this to the greatest extent at home: They had seized all the property belonging to the Crown, all church lands, and the ornaments of the church destined to sacred use, destroyed all the property of the Emigrants, and put every thing into what they termed a state of requisition; reducing men of any fortune, however large, to four hundred pounds a year; (Lord Grenville and Lord Auckland said two hundred;) Lord Hawkesbury therefore said, he found he had overstated it: Only two hundred pounds a year was the sum to which men of the greatest wealth and property were reduced. They had even gone into private houses in search of property, and taken away the few livres that they had found secreted, as the only property of the wretched owners. To prove that they wished to carry the same principles

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principles into other countries; he would refer to their conduct when they got possession of the Netherlands: There they planted the tree of liberty, and preached up equality and fraternization. They would have soon seized the property of the church there, had they been suffered to remain in quiet possession; and it was evident they had hopes of next being the conquerors of Holland, where, indeed, there were no church lands, but in which one of their leaders had remarked, "there was the rich town of Amsterdam." It was not at all improbable to suppose they would next have turned to Italy; and, if left to themselves, victory must have followed their footsteps; and there what plenty of church lands and ecclesiastical property would they not have found? In this manner they would have proceeded from place to place, until they had plundered every nation, and overturned every constitution. To such a height had they carried their decrees of requisition at home, that there was scarcely an article of commerce in France, that was not in that predicament; and even the articles of the husbandman had not escaped; since cattle, &c. were obliged to be disposed of at a certain price.

Those being the principles, and which, throughout the various changes in their anarchy, had been uniform, was it surprising that the most considerable European Powers should have found an interest in putting a stop to them? Or that England, from the situation she held in the scale, should stand forward, and endeavour to rally them to one point? His Lordship declared, he thought the ministers had acted in a manner highly meritorious, in having negotiated and concluded the treaties on the table. That with Sardinia had been particularly objected to; but would their Lordships recollect in what light Sardinia had always been viewed as an European Power? Let Noble Lords look back to former periods of our history, and they would see what had been the invariable policy of our ancestors. Sardinia, though its Prince was confessedly not the most potent, had ever been considered as a necessary barrier against the ambition of France. It might be considered as the key of Italy; and should we deliver the key of Italy into the keeping of the French? If they once got hold of that, what could prevent their incursions upon the Italian States, or check their depredations?

With respect to allowing the King a subsidy, it had always been usual so to do, upon the opinion that he was unable of himself to make the great exertions that were necessary; for it should be remembered, that he was bound to keep 50,000 men in arms during the whole war, and consequently it was no more

than justice to guarantee him in the security of his whole dominions, for the hazard he was naturally exposed to. In consequence of the subsidiary treaty with Sardinia, 100 sail of merchantmen richly laden had arrived the preceding day at Spithead from the Levant, the Mediterranean, and the various ports in that maritime quarter; a much larger and more valuable fleet than had ever been before known to arrive from those seas in time of war.

With respect to the neutral nations, he entirely approved the conduct of Administration, and thought it was perfectly agreeable to what had been laid down as a rule by every great writer on the subject. Was it to be borne that Genoa and Denmark, neither of them capable of producing sufficient corn and provisions, for their own consumption and necessities; should take the advantage of their neutrality by opening their ports, for the purpose of receiving freights both of corn and provisions, and carrying them into France for the supply of the French, in open hostilities against Great Britain? The policy of all war dictated that it was wise to deprive an enemy of supplies, especially such as they most needed. If provisions became necessary to enable the enemy to carry on the war, provisions, in every sense of the word, were contraband articles; and it mattered not whether the port was blockaded or not, in which they attempted to enter. Denmark, a power, which, as he had before stated, did not grow corn enough for her own consumption, chose to act in this extraordinary way, and make herself the carrier of provisions to France, when she well knew that the greatest part of Europe felt it their interest to endeavour to crush the dangerous efforts of the French, not only to make universal conquest, but to foment universal rebellion, and to subvert all regular government in every country where they could obtain a footing. With regard to Genoa, the conduct of that republic was the more to be wondered at, as it was clearly the interest of the Genoese to prevent the French, by every means in their power, from over-running the Italian states, and subverting their ancient systems of government. The law of nations, as laid down by every writer, Lord Hawkesbury said, clearly warranted the conduct Great Britain had pursued respecting neutral nations, and proved that we had acted with singular mildness and temper, where the provocation would have justified measures much more harsh and rigorous. Before their Lordships felt themselves prepared to condemn, it was, however, necessary for the House to inquire a little into the mode of proceeding, and then they would find, that, in all the vessels which had
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been so seized, the full value had been paid for their cargoes; and therefore the commercial man had not suffered the smallest injury by the detention of his property.

With regard to the restoring of the family compact, his Lordship declared, he would prefer the restoration of the family compact, though the natural enemies of this country, to the present existing and usurped government of France, who were the natural enemies of all mankind.

Having brought his argument to a conclusion, his Lordship took up the motion from the table, and after perusing it attentively, denied the truth of its positions severally. So far from our not having a concern in the prosecution and object of the war, he asserted that we had the greatest concern and the deepest interest of all the European powers engaged in it: That the treaties on the table sufficiently proved how nearly we were concerned and how deeply we were interested; and that they were in no respect whatsoever contradictory to the declarations of his Majesty's ministers delivered in Parliament. He concluded therefore with saying that he should give the motion his negative.

The Earl of Caernarvon said, that he was not surprised that the Noble Lord who professes an opinion adverse to the war, should look with an evil eye on the treaties which are of the essence of that war, and without which it could not be carried on. "The Noble Lord has been led, by this unfavourable opinion of the war, to throw out of his consideration all the political motives which have induced these treaties as a kind of fancy price, which ought not to enter into the fair commercial estimate of their political value. The Noble Lord asserts that all the treaties are disproportioned to their object, impolitic, and have contributed to make us principals in a war begun by others, on principles disavowed by ministers, and contrary to the interest of the country. None of these positions he has in the smallest degree proved; and the Noble Lord cannot produce a single sentence in any of the treaties which justifies the assertion. He has chiefly dwelt on the treaty with the King of Sardinia, as that which, on the face of it, if you lay out of your consideration the forcible motives arising from the necessity of the war, has the least apparent equality in the terms of the contract. The Noble Lord balances the sums given with the hard military service to be returned, with the same scrupulous exactness as if all treaties were of the same commercial nature as those for troops with the Landgraves of Hesse Cassel and Darmstadt; and he qualifies this treaty with the style and title of an inexplicable prodigy, a phenomenon in diplomatic composition. Whatever colour and complexion the Noble Lord's

arguments have received from his opinions of the war (and he confesses that he feels in all he says their impression), yet he must mean to say, that even if the war was necessary, this treaty is impolitic and disproportioned to the respective interests of the parties and to the exigencies of the war, or the whole argument must degenerate into another discussion of the propriety of the war, which has already taken so many shapes; and the war and the treaties must stand and fall by the same arguments, arguments which have been already discussed and decided upon by both houses, and which I shall not now recapitulate. Assuming therefore as admitted, for the sake of argument, that the war is necessary, then I join issue with the Noble Lord, and assert that all the treaties are fit and proper to have been made, and that the treaty with the King of Sardinia, which he peculiarly reprobates, is a prudent and wise measure, and the stipulations not disproportioned to the prudential motives of the treaty. The Noble Lord, with that force and perspicuity which belongs to him, says that we pledge ourselves to give much, in order that all the benefit may accrue to the Court of Sardinia; and that, in further consideration of their accepting these benefits, we bind ourselves unnecessarily not to make peace without procuring for them all the territory which they had lost, and all that they might lose in the progress of the war, and that on our part we receive nothing in return; that we supply a fleet for their protection, and give 200,000*l.* annually to induce them to defend themselves, which the Noble Lord thinks it was their interest to do without such inducement: This is the view which the Noble Lord gives of this treaty; and nothing but a partial consideration of the subject could have given the smallest plausibility to such a statement; a few simple principles will serve to put this treaty in its true light, and for this purpose it is necessary to observe, that whenever it is the interest of a great nation to protect a weaker from the oppression of a powerful neighbour, it is its own interest, and not that of the weak nation, which is the object; and from the nature of the assistance so motivated and given, it is not to be repaid under specific articles of the treaty, for it is given only because she is unable to supply the means of her own defence, and because it is the interest of the protector not to suffer her to be absorbed in the growing power of the oppressor; and if all the parties are at war, the protector may serve the additional purpose of occasioning a diversion of the troops of an enemy. A treaty therefore between an oppressed and protecting nation may be prudent and politic on both sides, and yet all the stipulations may, indeed from their nature must be, to the apparent benefit of the
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protected nation, and none for the advantage of the protecting power. He derives his advantages from the consequences flowing from the benefit he confers, not from the stipulated provisions of the treaty. This is the political key to this treaty and to all treaties of this nature; they must be judged from the situation of the parties, and not from the terms of the treaty alone; and it may be a very improvident and impolitic treaty for the party who on the face of the treaty seems to receive all and give nothing. Such would have been the sentiments of any person who had judged of the King of Sardinia's situation the year after the treaty of Worms, a treaty, the exact counterpart of the present, with all the same apparent advantages on the face of the treaty; yet these apparent advantages did not prevent the King of Sardinia from being stripped of all his dominions; and nothing but the guarantee similar to that now complained of produced his recovery from total ruin. The King of Sardinia, from his local position and his inability to cope with France, must at all times be an instrument of power in the hands of France, or a thorn in her side if protected and indemnified by the powers at war with France from the perils she exposes herself to by the alliance. All the treaties which this country has ever made with Sardinia prove this fact, and have been founded on this principle, whether they have had for their object to withdraw her from an alliance with France, as in 1703, or to protect her from the ambition of France, as in the treaty of Worms in 1743. The principles of all these treaties equally prove that Sardinia is unequal to her own defence, equally prove her value as an ally, and equally acknowledge the necessity of furnishing her with the means of defence, and encouraging her to face the storm, so dangerous from her local position, by guarantee of her dominions. What was the situation of Great Britain and Sardinia previous to and at the time of this treaty? Great Britain found two great powers at war with France; Savoy had been successfully invaded, and unable to defend herself, and was on the point of sinking under the force which assailed her, or submitting to any terms which might have been imposed: The interest of Great Britain must have been materially affected by this event, and she must ultimately have interposed to prevent it. The Noble Lord charges the temporary omission of such interposition as a neglect of the King's ministers, and by so doing he justifies the whole war; for if it would have been prudent to engage in a war to protect Savoy at that time, it is equally so now, and it was equally so to interpose for the protection of Holland: But France gave no time for deliberation, no time for the King's ministers to weigh the
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the situation of Savoy, and the proper conduct for Great Britain to hold; for she at the same moment attacked an ally, and threatened the security of Great Britain herself. Another motive therefore for the defence of Savoy immediately presented itself, and the King's ministers saw that the necessary defence of Savoy might operate as a useful diversion of the forces of France, with whom a war was inevitable, and that the money and troops so employed would enable them with greater ease to make conquests in other parts. It is impossible that any person who considers the situation and importance of Savoy, and the terms of the treaty, can imagine them too favourable to Savoy: She furnishes 50,000 men for the common purpose of the war, of which her own defence is a most essential part, for a sum which would not put above 20,000 Hessians in action; and you compensate the risk and peril she exposes herself to rather than compromise her quarrel with France, by giving assurances common to all treaties of offensive and defensive alliance, that you will not desert her in the utmost time of need, exposed without aid to the resentment and vengeance of a more powerful enemy; you pledge yourselves to do, what your honour and interest would compel you to do without such engagement. The Noble Lord has confined himself chiefly to this treaty, but he objects to all the treaties, and his motion states the ground of these objections to be, that they tend to involve you in the war on the principles, whatever they may be, on which your allies commenced it, contrary to the interest of Great Britain. The Noble Lord has not attempted to support this assertion by the shadow of an argument, and I defy the Noble Lord to point out a single sentence which will give colour to such a charge; so far from it, that all the treaties state defence as the object of the war: That with the Courts of Naples, Portugal, and Russia, declare the grounds of the war to be no other but *an unjust war declared against Great Britain and her allies*, and the object to be, to secure each other's dominions and restore public tranquillity: That with Spain states cause of uneasiness for our respective dominions, and the object the maintenance of the tranquillity of Europe: Sardinia states unprovoked aggression mutually experienced, and the object mutual defence; That with Prussia and the Emperor states unprovoked and cruel war commenced by France, and the object to oppose a barrier to the danger, and maintain the general tranquillity of Europe. There is no stipulation in any one of these treaties that pledges Great Britain to any of the views, avowed or secret, which may urge the other contracting parties to pursue the war beyond the preservation of their dominions, against unprovoked attacks, and

and the maintaining of the general tranquillity of Europe. It is not possible to frame treaties so little liable to the objections made in the terms of the motion, which I therefore cannot concur in, and have no difficulty to say that I agree with the Noble Lord who spoke last, in wishing that there were more of them. I wish, for instance, there had been one with the Swiss Cantons; I should have cheerfully concurred in a subsidy to engage their troops and their interest in a cause common to all Europe. With respect to the existing treaties, they have my warm approbation, and particularly that with Sardinia, which the Noble Lord seems to reprobate the most."

The Earl of Lauderdale said, that he did not hear those lavish praises of the conduct of Government which had been bestowed on former occasions, that night; he supposed that Noble Lords were better satisfied on that subject. His Lordship contended, that neither of the Noble Lords who had spoken on the subject had taken into consideration, that the several powers with whom we had entered into treaty, were previously engaged in the war; that it required no very great diplomatic talents to persuade one power to accept a subsidy, and the others the aid of our exertions by sea and land, without any express stipulations on our part. In order to elucidate this part of his argument, he took a comprehensive view of the nature of the different engagements we have entered into with the different powers engaged in the present war against France, and maintained, that they were such as could not be all carried into effect, for that they were utterly repugnant to each other in many essential parts; no two of them agreeing, and many of them being at variance even with themselves. He desired Noble Lords to give themselves a moment's time to recollect the different interests of the King of Prussia compared with our interests, and condemned a system of alliance, tending to distract our commercial interest, and lessen the produce of our manufactures, by diminishing the number of markets which, without such a combination, would be open to our commerce in the usual way of trade. He thought the kingdom at large was under great obligation to the Noble Earl for having brought forward the motion of that day; their essential interests existed in commerce, and consequently in peace; and to prove how far that had been injured by the present war, one single remark would be sufficient: No man could be a stranger to the injury the commerce of this country received during the war with America; and yet, long as that war had continued, application had not been made to Government for that assistance which in the present war had been found requisite in the first campaign. The treaties on the

the table he objected to *in toto*, since they manifestly bound this country down to various disadvantages, and stipulated for nothing in return. He said he could not admit that great alliances were always expedient; and reminded the House of the danger that might ensue from binding ourselves to each power in a different manner. We were not to be permitted to make peace, even upon the most advantageous terms, unless Savoy was restored to the King of Sardinia, although Savoy had been taken before we were concerned in the war; nay, he would contend, and he defied ministers to contradict him, that by these treaties, if Austria was to withdraw, if Spain, Prussia, nay, if all were to give out and withdraw from the combination, we then should have to continue the war by ourselves, and at our single expence, for the restoration of Savoy, or give up British faith. He knew such an idea must appear ridiculous; but he also knew such was the fact, and such was the nature of these various treaties. There was however a possibility, that some of our allies might get a little cool upon the subject, a fact which he conceived to be sufficiently notorious, although ministers found it convenient to be silent upon the matter; in saying this he alluded not to vague reports, but to the official papers on the continent, which declared that publickly, of which we had not in this country heard the most distant hint. His Lordship ridiculed the idea of our making a common cause of this war with the other powers confederated against France, for the purpose of establishing a government in that country on which we could confide. Our view, as expressed in the declaration to the people of Toulon, was for a limited monarchy, and we must naturally wish for a limited monarchy, because the people under that government had experienced many blessings. Would Spain agree to this? Would the House of Austria agree to it? Would the King of Prussia agree to it? Was it not known that M. de la Fayette, the strenuous supporter of the French constitution of 1789, which we had promised to establish, now lies in a dungeon, at the instance of the King of Prussia our ally? The people of Prussia, or rather the King, since in that despotic country the people had no voice, would wish for a despotic government; and perhaps the Empress might express her desire that an elective monarchy, such as the old constitution of Poland, might be established. But the mischief did not end here; for supposing that all the Combined Powers, not professing one common interest against France, were to agree in one common object in that war, and supposing them to act in strict conformity to that agreement, and that they should only require an indemnity for the losses they must inevitably sustain in prosecuting

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secuting the war; and supposing still further, that they should gain the full extent of their wishes, the entire subjugation of France, what would then be the consequence? Spain must be indemnified; Sardinia must be indemnified; Russia must be indemnified; and Austria indemnified! How was this to be done? By dividing France; and after this division had taken place, to the satisfaction of the parties, there would not be left of the dominion of France any part considerable enough about which to contend for a form of government. His opinion was, that complete success over the French would be one of the worst things which could happen for this country; for Great Britain would in that case find nothing but ruin in the event. As this however was a distant prospect, we should look at what was more likely to be the point of dispute for a long time to come, if the war was to be carried on, upon the present system of the allies, and for the general object they pretended to have in view, namely, a form of government for France. Upon that point he could not see how the parties in alliance could agree. To an Englishman, as he had before stated, a limited monarchy would be natural; to the other powers, a military government; so that he saw no probability of the allies at all agreeing on the form of government they should impose on France, supposing them even to be able to impose any. He expressed his surprise at the language held by the Noble Lord with respect to Denmark; such a tone could not be borne and endured by a power of any spirit, nor did he think language so near to gross insolence ought to be allowed in a British Senate: Were we to say to a neutral power, Because you have not sufficient of such a commodity for your own use, you must not therefore dare to vend it? It was for the ministers of that country to consult its interests, and to make such regulations as they thought best suited to its circumstances. He quoted an extract from Lord Hawkebury's discourse on the Establishment of a national and constitutional Force in England, and reminded him of the case of the Dutch in the war of 1756, in direct contradiction of what he had that night affirmed. The Noble Lord had expressed a wish that all the countries in Europe should be engaged as our allies in the war against France; for his part, he had no such wish. Our resources for carrying on the war were to be derived from our trade, which a general war must entirely destroy; and because it would tend to delay peace, the only thing that could be of essential advantage to the country. He thought the Noble Lord had acted with much indelicacy towards the commissioners at Toulon, when he declared, there was no treaty by which this country was bound to the re-

establishment of Louis the Seventeenth, and the constitution of 1789. The Noble Lord had said, that it was held out for the purpose of raising a body of French to act against the country. He thought it imprudent and dangerous to tell the French they were not to believe a declaration made by one of our generals, and that the English nation would not hold themselves bound by any such declaration. He pointed out the violent contradiction between Lord Hood's declaration (by which paper British faith was pledged) and General Wurmser's manifesto, and commented on the inference that must necessarily be drawn by all Europe. The idea that we could not treat with the present rulers of France, on account of their being incapable of entering into any plan for negotiating for a peace, he treated as ridiculous and absurd. If there was government enough in France to direct the war, the Earl said, there was government enough to feel the true interest of the country, and treat for peace. In short, he saw no chance by which this country might be benefited in the progress of this war; but he saw many by which it might be severely injured, and among these was one that was but too probable; he meant what he had before alluded to, that many of the powers engaged might, from time to time, demand subsidies of us, and perhaps suddenly quit the combination, if it should suit their partial interest, so that at last we might be left almost alone to stand the brunt and the expence of the contest. The motion before the House tended to check that spreading spirit of alliance, which was repugnant to the true interest of this country; and therefore it had his hearty assent.

Lord Hawkebury rose to explain. His Lordship justified his pamphlet, and observed, that men often in early life avowed opinions, which they had a right to change and alter on better experience. He did not, however, feel any reason to alter his opinion respecting the conduct of the Dutch in 1756. He explained the circumstances of that conduct, and maintained, that what he had said about Denmark and Genoa was warranted by the conduct of the Courts of those two Neutral Powers.

The Earl of Mansfield began a very able speech, with assuring the House that he would not trespass long upon their patience. He confessed the difficulty that every speaker in Parliament must necessarily experience, in endeavouring to avoid the ground that had already been passed over in debate. On that account, on account of the late hour, and for various other reasons, their Lordships might depend on his not going into length. The Earl maintained the general policy of foreign alliances, when Great Britain was engaged in a continental

war. He asked, would any statesman say that such a war as the present could be carried on without alliances? He therefore thought, that subsidies given to such Princes as needed them, be their amount what it would, was matter of little consideration, compared with the magnitude of our object in the war. He, therefore, was of opinion, that the motion, if carried, would totally destroy the objects for which the confederates had armed: Whereas, instead of weakening the alliance, it should be the object of this country to strengthen and consolidate it, for the security and peace of Europe. It could never, the Earl said, be the wish of this country to suffer Holland and Flanders to remain in the possession of the French, which must have been the case if we had not armed to repel the abominable system of Jacobinism which had pervaded the unhappy country of Flanders wherever the French had obtained a footing. With regard to the partition of Poland, he was by no means satisfied with the measure; but it had happened before, and yet we had no objection to take Russia as an ally; and he should be heartily glad to hear of a large subsidy being granted to Russia, as the security of her alliance. Had that measure been adopted in a former war, perhaps we should have heard nothing of the armed neutrality. In his diplomatic capacity he had known the unfortunate King of Poland, and he thought him greatly to be pitied. He was a man of talents, of virtue, of conscience, and a Monarch that always wished to promote the happiness of his people. His prospects, though at one time as bright as any that favoured any Sovereign, it was true, were baffled; which was a circumstance he would not attempt to justify. But he did not deem it either politic or necessary for Great Britain, in consequence of such circumstances, to dissolve its connexion with Russia. She was a formidable ally, and would, he had no doubt, fit out an armament at our request, and such as must be of material advantage to the confederacy. His Lordship contended that Lord Hood had acted right with respect to the Toulonese; and that offering them the constitution they required, modified agreeable to the subsequent dispositions of the people, was sound policy. He defended the conduct of ministry with respect to neutral powers, particularly with regard to Denmark and Genoa, as during the seven years war it was always deemed by the late Lord Chatham a violation of the rights of nations for neutral powers to export grain, provisions, or ammunition and stores, to the country of the enemy.

The Earl thought that the motion before their Lordships involved this consideration. Would it lead to a speedy, a safe, and an honourable peace? Or would it, if carried,

tend only to a momentary security, and a delusive repose of short and uncertain duration, by tending to weaken the alliances that had been formed? He was of the latter opinion. With regard to the treaty with the King of Sardinia, he considered it as an extremely wise measure on the part of Great Britain; and that we ought to insist on the restoration of Savoy to the King of Sardinia at any price, because, as had been well asked, would we consent to lodge the key of Italy in the hands of the French? He much applauded the exertion of ministers, and as to a form of government for France, he thought there was a silent wish prevalent in that country, that it should be a Monarchy under some limitations or other. So convinced was he of this, that he had no doubt, if support should be given to those who wished to live under a regular form of government, and see an end to the present system of anarchy, oppression, and tyranny, a civil contention and internal resistance would take place, which would tend more effectually to restore peace, order, and good government to France, than any operations of foreign force, and would be well purchased at any price. He concluded with observing, that the great object of the war was the destruction of the present tyranny of France, and the annihilation of the Jacobin faction. It was an object that must be accomplished before any order could be restored, or any security obtained for Europe; an object as great and glorious as any that ever called for the united efforts of mankind. From these considerations he held himself bound to resist the motion before the House, and give it his decided negative.

The Marquis of Lansdown said, it would not remain for him to trouble their Lordships long, as the motion had been so ably supported by argument already. He would not utter a single syllable with respect to Lord Hood; he would not mention a word against his conduct; he would leave it to futurity to decide, when the people of Great Britain should view the subject divested of mystery, when the shades of doubt had passed away, and when truth stood on its own broad basis. In the time of Sir Robert Walpole, he maintained that there never was greater profusion than at the present period; a period when economy was never more necessary. He highly approved of the motion, and must say, that there was great good sense, in the Noble Earl's having, in arguing upon the treaties on the table, divided them into two classes, which he should take the liberty of distinguishing under the names of political treaties and subsidiary treaties. He would support the motion most strenuously, as tending to stop the torrent of alliances that seemed at present to confound all ideas of distinction

inction in diplomatic conventions and agreements. Ministers had so blended subsidiary with political treaties, that it was hardly possible now to know the one from the other of them. He condemned as profuse, extravagant, and shameful, most of our subsidiary treaties: He thought the treaty with the King of Sardinia was of this description, as well as many of our German and other continental engagements, in which there was nothing to be seen but the most shameful inequality, and want of reciprocity. He alledged that there were no other people this day upon earth like the people of England; they had suffered themselves to be lulled to sleep, and nothing but their unparalleled torpor and stupidity would have enabled ministers to proceed as they had done in the present war. Englishmen, who were free, and had none of the internal inconveniences to which many of our allies were subject, were to be put on a footing with, nay, to subsidize and pay taxes for, those whose blood was sold, let out to hire, and hackneyed for the service of their Sovereigns! He expressed much apprehension that, when taxes came to be heaped upon taxes on the people of England, lethargic as they were at present, they might awake, nay, he already doubted whether the merchants of London would bear the conduct of ministers much longer, and the consequences he would not presume to foretel. Part of what he had already feared, and predicted as the probable consequence of negativing his motion the other day for peace, had already proved true. He was alarmed at what might be the effect of the next campaign. He did not pretend to speak from any priyate information, but from the official reply of the King of Prussia to the Circles near him, which was plainly given in the foreign gazettes: He thought there could not be any doubt of its authenticity. In that paper it would be found, the King of Prussia had made a formal demand of a certain supply for the maintenance of his troops; the Diet of Ratisbon not approving the demand, had rather preferred defending themselves, and offered to rise in a mass. To this the King of Prussia objected, stating several reasons against putting arms in the hands of the peasants; but particularly the great neglect of husbandry and agriculture that it would occasion, and that when the peasants so armed, there might be great danger of their imbibing new principles. These apprehensions might arise in the minds of some of our allies, who are conscious the despotism of their governments, and the hardships the people labour under, have rendered them ripe for revolt. But could any of these allusions be brought to bear upon England, where the people were all happy in their constitution? Because, as the merchants in their address had most
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emphatically expressed it, "If it has any defects, it possesses the right and the power to amend them." The minister of the Court of Berlin, however, finding the different feeling of all Germany, and finding the Circles firm, at length informs them, that the King, his master, was in negotiation with one of the principal powers engaged in the war, and by which he thought he should be enabled to release them from a great part of what he had required. What was this less than saying, the people of England will take the burden upon themselves; the men of Suabia shall be saved, and Englishmen are to be taken, burdened, and oppressed, beyond bearing? What apology, he asked, could they make for lavishing the treasures of England in subsidizing Sardinia and Prussia to protect their own dominions? If the German Princes were to say, that they would withdraw their troops, he saw no reason for this country to feel concerned for the measure.

The Noble Lord (Lord Hawkebury), who had first objected to the motion, had done so, not by answering those strong and candid arguments, by which his Noble Friend had introduced it, but by the old, hackneyed, and now worn-out appeal to the passions, on the enmities of the French. He had, indeed, told us we were not fighting to put Louis XVII. on the throne; but he had not told us for what we were fighting, for what the blood and treasure of this country was to be totally exhausted. The Marquis said, he did not think the prospects from the last campaign were by any means sufficiently flattering to induce us to persevere, when we did not know for what. By the treaties it was manifest, that, instead of an auxiliary, assisting our ally, we had somehow or other become a principal, and were not only content and eager to fight ourselves, but disposed to pay all who were ready to fight for us. Some of our allies, indeed, might be satisfied with the war, since, but for the contest with France, he did not believe the shameful division of Poland would have taken place. Therefore, by looking at the past, Poland had been divided, and it was supposed to be the object of Russia to commence an immediate war with Turkey, for which purpose, he understood, great armaments by sea and land were already preparing by the Court of Petersburg. How would one of our allies, Austria, feel in that case? But if, for the sake of crushing the French, we were to enter into a treaty with the Empress, to procure her friendship for that good common cause, to guarantee to her any possessions of the Turks, there was no doubt but that just Princes would be punctual and faithful to her engagements; and when the Noble Lord on the cross bench (Lord Hawkebury), should publish a new edition
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of his excellent discourse on the Law of Nations, he would advise him to dedicate it to the Empress of Russia.

The Marquis said, a whimsical sort of contradiction and variety was obvious in the conduct of his Majesty's ministers. By their language it would seem, as if we were to look at one another in this country with universal distrust and jealousy, for that the country was ready to burst into insurrection. By their conduct it would appear, that we were perfectly safe, since they were day after day sending off to other kingdoms the whole wealth and strength of this nation, not only to pay them for fighting our battles abroad, but all our own troops, leaving the kingdom to defend itself, in case of attack, by foreign force, which had more than once been seriously talked of as a matter to be expected. Upon all these grounds, the Marquis said, he approved of the motion, because he thought it wisely calculated to check these improper practices, and to contain the most important truth in every sentence of it; and therefore it had his assent.

The Duke of Leeds said, several Noble Lords had argued as if the time were come for Parliament to decide what the constitution of France ought to be; he heartily wished that fortunate moment was arrived, but it was by no means the case at present. He declared he had listened with great attention to the Noble Marquis, because attention was, at all times, due to him on account of his character, and on account of his talents and experience as a statesman. He could not, however, help being somewhat surprised at the contradictory accounts which the Noble Marquis, at different times, had given of the temper and character of the people. At one time he had described them as insensible and indifferent, ready to bear any thing, and willing to be beaten and trod on without resistance. At another time he had stated them to be all alive to the pressure of the burden of taxes, prone to disorder, ready to rise, and ripe for resistance and tumult. He was, the Duke said, the more amazed at this, because he well knew, however prone others might be to excite and encourage popular discontent and clamour, the Noble Marquis would not be the man to raise sedition, or do any thing to induce the people to abandon the substantial blessings they enjoyed under the existing constitution and established form of government, and risque the loss of every thing dear to a reflecting mind in a rash and fruitless pursuit of fancied benefits, and imaginary advantages, which, in the nature of things, were not to be obtained. Having pressed his irony as far as he could carry it with a due regard to delicacy, his Grace declared explicitly, that he highly approved of the treaties on the table: He
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thought them to be founded in true policy, and such as would prove useful and beneficial to the country. The Duke complimented the Earl of Guildford on the ability which he had displayed, and on the becoming manner of his opening the motion. He said, he gave the Noble Earl full credit for the purity of his motives, but must beg leave to be allowed to differ from him entirely, and that on principle. The nature of our constitution was such, as rendered it impossible to provide for the internal defence of the kingdom, and carry on active operations against our enemies abroad, without subsidizing foreign Princes capable of furnishing foreign troops. The policy of this practice had been adopted, and certainly it was a wise one to be pursued, the nature of our constitution making it unavoidable. The treaties on the table therefore were, in his mind, extremely judicious; and appeared to be founded in strict policy; and for that reason he joined with other Noble Lords, in wishing that there were more alliances, thinking, as he did, that the more the better. Most of all he approved the treaty with Sardinia, because, as had been well said, it would be the reverse of wisdom to suffer the French to be the holders of the key of Italy. The treaty was the same with that of Worms, concluded in September 1743; the subsidy exactly the same, but the present was, not like the treaty of Worms, retrospective. This circumstance was to the praise of ministers, who had thus by economy saved the country 300,000*l.* The treaty of Worms, though concluded in 1743, commenced as to the subsidy retrospectively in 1742.

The Duke said, he looked at every treaty on the table, but one, with satisfaction; and that was the convention with an illustrious Potentate, that he owned gave him some concern. He said, it was far from his intention to cast any imputation on ministers for having made the treaty in question; they deserved the thanks of the Public for what they had done. But if Noble Lords would look at the convention to which he alluded, and he believed it was on the table, they would see that it contained mutual stipulations. His concern arose from those stipulations not having been completely fulfilled on each side. On our part we certainly had complied with our conditions: Had Russia done the same? In regard to what had been alluded to in the course of the debate, our conduct towards neutral powers, he would say a word or two. Denmark had been particularly mentioned, and it had been made just matter of complaint that Denmark, though known to be destitute of sufficient corn, and sufficient provisions, for her own occasions, suffered ships to bring both into her ports, and then supplied France with each from time to time. If Russia had been

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been as willing to fulfil the stipulations she had entered into by the convention in question, as we had proved ourselves to be, was it not obvious that she might have put an end to the mischievous conduct of Denmark whenever she pleased? His Grace made a few observations on this point, and concluded with expressing a wish, that his Noble Friend who made the motion would give him leave to vote against it, because he thought it by no means founded in fact, nor proper to pass under the existing circumstances of the country.

A division taking place, there appeared for the motion,

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HOUSE OF LORDS.

WEDNESDAY, *March 19.*

SCOTCH APPEAL.

Mrs. Sarah Aglianby, widow of the deceased Richard Lotherian, Esq. Appellant.

John Maxwell, Esq. and Wellwood Maxwell, Esq. Trustees of George Ross, late Merchant of Dumfries, Respondents.

Counsel were called to the Bar in this cause.

The Attorney General and Mr. Anstruther for the Appellant, and Messrs. Grant and Ferguson for the Respondents.

From the importance and length of this cause, the Attorney General only went through part of the Appellant's case, and the further proceedings were adjourned till the 20th.

The Bills on the Table went through their respective stages. Adjourned.

HOUSE OF COMMONS.

WEDNESDAY, *March 19.*

All applicants respecting the Wisbeach Canal are to have voices.

Passed the Huddersfield Canal, and Tuddenham Inclosure Bills.

To lie on the Table, Account of Hull Customs, and Rippon Woolcombers' Petition.

To be engrossed, the Rochdale Road, Harlington Canal, and East Mark Inclosure Bills.

Referred to a Committee, Petition against Melton Inclosure. The Petitioners to be heard by Counsel.

Adjourned.

HOUSE OF LORDS.

THURSDAY, *March 20.*

Heard Counsel on an Appeal, Sarah Aglianby, otherwise Lothian, widow and executrix of Richard Lothian, Esq. deceased, Appellant; John Maxwell and others, Esquires, Respondents.—Ordered further hearing to-morrow.

Received from the Commons several Private Bills.

The House in a Committee went through the Penny Post regulating Bill, and ordered the Report to be received to-morrow.

Lord Auckland moved, That there be laid before the House, accounts of all the ships cleared out of Ports in Great Britain to the Coast of Africa, with their tonnage, from the year 1788, to the latest period to which they can be made up.

Also accounts of the number of negroes imported into the West Indies, for the same period.—Ordered.

The Duke of Clarence presented a Petition on behalf of the Merchants of Liverpool against the Bill now depending for preventing the supply of foreign territories with slaves in British ships, or by British subjects.

Ordered to be laid on the Table.

Adjourned.

HOUSE OF COMMONS.

THURSDAY, *March 20.*

The Reading Roads Bill was presented, and read the first time.

A Petition from the Journeymen Bakers against the Sunday Bill was presented, and referred to the Committee on the Bill, and to be supported by Counsel.

The Petitions presented from the Manufacturers of Woollen Cloth in the West Riding of the County of York were referred to a Committee.

The Mark Inclosure, Militia Augmentation, and the Scad-dowgate Roads Bills, were read the third time, and passed.

The Report of Miss Atherton's Petition was ordered to be considered that day week.

The Rippon Road, Glamorgan Canal, and the Werwick Inclosure Bills were read, and ordered to be engrossed.

Mr. Thompson said, that on account of the absence of a Right Hon. Gentleman (*Mr. Dundas*) he should postpone the motion of which he had given notice till Tuesday next. He took this opportunity of intimating that the motion was not merely for a list of all the persons who had actually quitted the country,

country, but of all who had been ordered to quit the country under the Alien Bill.

Major Maitland presented a Petition against the Aberdeen Police Bill, which was ordered to lie on the Table. He said it was his intention to have moved that the second reading of the Bill be postponed, that the petitioners might have time to be heard against it; but on account of the absence of an Hon. Gentleman who supported the Bill, he should defer the motion till the next day.

Mr. Long moved for leave to bring in a Bill, to prevent the exportation of Pot-ash coastways, and also to indemnify certain persons who had acted under an order of Council in detaining certain vessels laden with Pot-ash. The House went into a Committee, and leave was granted.

DUTIES ON PAPER.

The House went into a Committee on the Paper Bill, when

Mr. Brandling objected to the present arrangement of the duties: What he chiefly insisted upon was the great disproportion of impost which was laid upon printing paper. A distinction, in his opinion, ought to have been preserved between printing and writing paper; whereas the duties on whited brown and brown paper were of such a nature as to operate as a species of shop-tax on the retail dealers, who were a very useful though indigent set of men. In making these remarks, it was no part of his intention to embarrass the measures of the executive government, but merely with the hope that the Chancellor of the Exchequer would arrange matters to the satisfaction of all parties.

Mr. Rose admitted the inequality, but said, it was found impossible, upon the most mature deliberation, to remedy the evil, as many of those papers classed under the head of writing paper, were frequently used for printing. He stated, that the present duties would not exceed those which were intended to take place by the regulations of the year 1789.

After some further conversation, in which *Sir Matthew Ridley*, *Mr. Steele*, and *Mr. Taylor* shortly spoke, the Bill was read a second time. The Report to be received on Monday the 24th.—Adjourned.

HOUSE OF LORDS.

FRIDAY, March 21.

Read a third time the Militia Bill, as also several Private Bills.

The Duke of Norfolk presented a petition in behalf of the Hon. Mr. Howard, praying that leave be given to bring in a Bill for dissolving the marriage between him and Lady Elizabeth his present wife.

The petition being presented, and leave being given according to the prayer of it, the Bill was brought in immediately, and read a first time.

Heard Counsel on an Appeal from Scotland, and ordered a further hearing.

Adjourned.

HOUSE OF COMMONS.

FRIDAY, March 21.

A message from the Lords informed the House, that their Lordships had agreed to the Bill for regulating the Penny-post, and several private bills, without any amendment.

The Chancellor of the Exchequer brought up a message from the King, importing, "That his Majesty had given directions, that the house lately occupied by the Auditor of the Exchequer, should be appropriated for the Speaker of the House of Commons for the time being."

Lord Frederick Campbell moved an Address of Thanks to his Majesty, for his condescension and goodness in making such a gracious communication, which was carried *nem. con.* as also that such Address be presented by such Members of the House as were of his Majesty's Most Honourable Privy Council.—Ordered.

SUBSCRIPTION FOR RAISING TROOPS FOR THE PURPOSE OF INTERNAL DEFENCE.

Mr. Sheridan said, he understood that letters had been sent to the Lords Lieutenants of several counties, by Government; which letters had been laid before the Grand Juries. He wished therefore to ask the Chancellor of the Exchequer, if the measure which had been lately published relative to the recommending the raising of troops by voluntary subscription, upon plans to be suggested by the Lords Lieutenants of different counties, came from the Secretary of State? and if so, whether the Right Honourable Gentleman had any objection to laying that communication before the House? He should suppose there could not be any objection to this. Indeed, it was a point that required little or no argument, as he conceived; since nothing could be more clear than that a proposition from the executive power to any quarter whatever, on

so public an object, for the raising of troops, ought and must be laid before Parliament. Nor could there be any thing more decidedly unconstitutional than that there should be any measure whatever carried on for the raising an army, without the immediate knowledge of the House of Commons. All that he wanted to know was, Whether this communication was to be laid before the House as a matter of course? because, if it were not so intended, he must move for it on the first open day.

The Chancellor of the Exchequer said, the Hon. Gentleman had not been in the House on a former day, when a short conversation on this subject had taken place, or he would have heard him declare that it was his intention to state the measure to Parliament as soon as it was sufficiently matured. The communication to which the Hon. Gentleman alluded, was not a specific plan for raising troops; the whole was nothing more than a measure by which ministers might be enabled to digest some plan or other, which, when digested, should be laid before the House the first practicable opportunity. Estimates were actually prepared, and would be ready, he believed, to be presented to the House on Monday the 24th. With regard to the paper of communication to the Lords Lieutenants, he could not agree that it ought to be produced; and what he had said already, he hoped would shew that there was no necessity for producing it, because that paper only went to the question in what shape the estimates should be laid before Parliament. It was only a communication with a view to form a plan; which plan of itself could have no authority before it received the sanction of Parliament.

Mr. Sheridan said, he had not heard any thing like a reason why the circular letter to the Lords Lieutenants of counties should not be laid before the House. There was no time to be lost on so important a subject as that he was alluding to. That there should even have been a proposition from the Crown to levy money on the people in any manner, under any pretence whatever, without the express consent of the House of Commons, he must own excited his astonishment; and therefore he gave notice that he should have a motion to make on this subject on Monday the 24th.

Mr. Baker said, that both plans and estimates had been handed to the different grand juries.

The Chancellor of the Exchequer said, notice having been given of a motion upon the subject, he would not then enter into a discussion of the legality of raising voluntary subscriptions in time of war, and applying them to the pay of the army or navy; but he would venture to say, that innumerable instances

stances had occurred, in which money so raised had been applied to the payment of troops, the raising of which had been previously sanctioned by Parliament, which was all that was meant to be done in the present instance.

Mr. Taylor wished expressly to know if it was the copy of the order of Council sent to the different Lords Lieutenants that he refused.

The Chancellor of the Exchequer answered, that his Honourable Friend had moved for certain papers which he thought it his duty to oppose.

Mr. Sheridan then gave notice of a motion for those papers on Monday the 24th.

PAPER DUTY.

On reading the report of the Committee on the Bill for imposing an additional Duty on Paper,

Mr. Brandling wished that the Bill could be delayed for a few days, having received instructions from his constituents to state, that the duty imposed on the lower class of paper would amount, in point of fact, to much more than the sum proposed by the Chancellor of the Exchequer, and that it would prove extremely oppressive. The sum it was given for was 70,000*l.* whereas it had been stated to him that it would raise three times that sum. If this was a fact, he was sure the Chancellor of the Exchequer would have no objection to lowering the duties, so as to produce only the sum wanted. He would not undertake himself to vouch for the truth of this assertion; but he thought it would be but fair that his constituents should have an opportunity of proving what they alledged, if they could: And for that reason he moved that the Bill be recommended.

The Chancellor of the Exchequer said, that, from all the information he had been able to collect from revenue officers, manufacturers, and others, the truth appeared to be so widely different from the statement of the Hon. Gentleman, that he had great reason to apprehend the Hon. Member was misinformed. The difficulties and fraud which occurred in the former mode of laying on this tax, had induced him to adopt the present mode, which he understood would about double the former tax, and no more; if however the tax should be more productive, he would be very well pleased, and no person knew better than the Hon. Member, how much the necessities of the times demanded an increase of revenue. From the length of time that the Bill had been before the House, and the pressure of the business of the revenue, he thought himself bound to resist any further delay in the business, and therefore to oppose the recommendation.

Mr.

Mr. Brandling said, he had stated no more than his constituents had directed him to state: He could not call in question their statement of a fact, without further information on the subject: All he wished was, that his constituents might have an opportunity afforded them of sending up to him an account of the duties as they had said they would operate.

The Speaker said, that there were other modes of discussing the question, besides that of recommitting the Bill. It might be moved that the proposed duties might be lowered; or at any future stage of the Bill, that the debate arising on that stage might be adjourned.

Sir Matthew White Ridley pointed out many objectionable parts of this Bill as they appeared to him. He proposed modes of alleviating the hardships which the Bill tended to create, by distinguishing the different classes of paper by the water mark, by means of certain drawbacks, and by taking the duty *ad valorem*.

Mr. Burdon said, he had taken some pains to inquire into the subject, and he had reason to think this an unequal, unjust, and oppressive duty, and such as was by no means consistent with the discretion and sound policy for which the Chancellor of the Exchequer's conduct was so eminently distinguished. In the present case he stated, that on thick and thin post, which was chiefly used by the rich, there would be no more than a duty of 13 or 14 per cent. and on common printing paper, and whited brown paper, the duty amounted to 50 per cent. He thought also, that besides laying a heavy duty on the lower orders of the people, which should as much as possible be avoided, the duty would also, in point of fact, injure and diminish the circulation of general intelligence all over the kingdom; a thing that ought to be deemed sacred.

Mr. Rose admitted, as he had done on a former day, the hardships which the Bill would occasion; but maintained that they were unavoidable, unless known and palpable frauds of the revenue were to be tolerated. *Mr. Rose* said, it was highly necessary, for the sake of the revenue, that the Bill should be no longer delayed.

Mr. Sheridan said, that, from what he had heard, it was clear to his mind that the Bill ought to be recommitting. In its present form it did not appear likely to answer any good purpose to the revenue. Indeed, Bills of this kind were almost always passed through the House without receiving the degree of attention that was due to them; and he hoped to see the day when that negligence should no longer be suffered, and when every revenue bill whatever would be printed; for there were none which required more investigation. It appeared extraordinary,

ordinary, indeed, that fine paper, used by the higher ranks of life for their amusing and elegant correspondence, should be charged about 14 per cent. additional duty by this Bill, and that the most useful and cheap communication of intelligence should be charged at so high a rate as between forty and fifty per cent. ! This, if persisted in, would amount to a prohibition of almost all the cheap means of circulation of intelligence. On newspapers, for instance, the duty would be what he had stated; but he hoped they would be allowed a drawback on the stamp equal to the amount of the additional duty. There was another circumstance which he could not help mentioning, because he should feel it incumbent on him to introduce a clause to prevent such scandalous abuse of the revenue laws. There was a mill for the manufactory of paper to a great amount in this country, in which the forgery of French assignats was carried on. The excise officer who attended this mill, doubted whether he ought to suffer this sort of proceeding to pass; and, on making the necessary communications, he had received what appeared to him to be sufficient authority for superintending this species of manufacture, as if it had been the regular and honest manufacture of paper in the way of trade. He did not state this upon a loose hearsay or vague rumour, he could give the name of the mill if necessary. He thought it for the honour of the nation, and for the character of Government, to disavow, by its ministers, any share in such a scandalous proceeding.

The Chancellor of the Exchequer said, that information from those who committed forgery was not the best sort of information to rely on.

Mr. Taylor said, he had seen a letter stating at what mill this was done, and had also seen some of the forged assignats.

Mr. Sheridan said, that, as making the paper did not constitute the forgery, the answer of the Chancellor of the Exchequer in fact amounted to nothing. He had stated this to have been done at a public paper mill in this country, and that the excise officer, who superintended the manufacture of that mill, had what appeared to him to be good authority for passing it by; it was therefore essential to the honour of Government that all this should be cleared up; which should be his object on a future day.

The motion for the recommitment of the Bill was then negatived, and the resolutions of the Committee all agreed to.—
Adjourned.

HOUSE OF LORDS.

MONDAY, *March 24.*

The Marquis Cornwallis took the oaths and his seat, to which he was introduced by the Marquis of Stafford and the Marquis Townsend.

The Lord Chancellor then read to the Marquis the vote of thanks of the House of Peers, for the eminent and meritorious services which that Nobleman had rendered to his country in India, as follows :

“ The Lords, by an unanimous vote of the 17th December 1792, have ordered,

“ That the thanks of this House be given to the Marquis Cornwallis, for his distinguished military services in India, and for the termination of the war in that country, by an advantageous and honourable peace; and that the Lord Speaker of this House do give his Lordship the same, when his Lordship is in his place in this House.”

“ When it devolved upon me to communicate this order to your Lordship, I felt a just solicitude to examine on what occasions, and in what manner, that duty had formerly been discharged.

“ The first instance which the Journals of the House afford, is of an illustrious Commander, whose frequent victories in the early part of this century had received in this place repeated thanks; and particularly military services have since obtained the same distinction.

“ The order which it is my part to execute, has a larger extent than any former precedent. Your Lordship's services have marked for public gratitude, actions of an higher order than the splendour of a victory or the successful conduct of a campaign; and the thanks of the House have distinguished the justice, humanity, and moderation with which you have improved victory for the purpose of establishing peace on such terms as demonstrate to the world that Great Britain directs the force of her arms to no other object but indemnity and security to herself and her allies.

“ So desirable a conclusion of war was the natural and almost necessary result of the preparation your Lordship had made for

it: Not merely by a supply of all articles of immediate exigence for military service, but by the uniform tenor of a wise and beneficent administration, which uniting the affections of those who were subject to it, and the confidence of the neighbouring powers of Indostan, had inspired them with a firm reliance on the mild protecting influence of the British government, and a full assurance that success would attend that war which you conducted.

“The date of the order by which alone I am authorised now to address your Lordship, precludes the consideration of subsequent services, which are fresh in the memory of every one; but I may be allowed to express the firm persuasion I feel, that the precedent of repeated thanks which distinguished the beginning of this century will be renewed in the close of it; and that the debt of public gratitude to your Lordship will continue, still paying, still to owe.”

To which his Lordship replied,

“My Lords,

“The honourable testimony of your Lordships’ unanimous voice that my conduct has merited the esteem of my countrymen, and has promoted the honour and interests of Britain, is a circumstance so highly gratifying to my feelings, that whilst I live I shall reflect upon it with a degree of satisfaction that it is not easy for me to express.

“It has likewise afforded me great pleasure, that your Lordships have declared your approbation of the services of my worthy gallant friends Sir William Medows and Sir Robert Abercromby, and of the officers and soldiers who were employed under my command during the late war in India; as it was by their meritorious and unwearied exertions that I was enabled to bring the contest to so honourable and advantageous a termination.

“I am truly sensible of the obliging and flattering manner in which the favourable sentiments of the House were communicated to me, and I request that the Noble Lord will accept my warmest acknowledgments.”

His

His Royal Highness the Duke of Clarence moved, That the proper Officer do lay before the House, copies of several papers relative to the Slave Trade; which were ordered. Adjourned.

HOUSE OF COMMONS.

MONDAY, *March 24.*

The resolutions relative to smuggling Tobacco were reported, and a Bill ordered.

The House in a Committee went through the Alien Bill.

The question, that there be laid before the House a list of all foreigners who have been ordered to quit the kingdom under the powers of the Alien Act, passed in the negative.

Ordered, an Address to the King for a Copy of the Letter, dated Whitehall, March 14, addressed to the Lords Lieutenants of counties; together with the plans and other papers inclosed therein. To be presented by Privy Counsellors.

An Account of the revenues of the East India Company, and also an Account of Computations. Ordered.

The Paper Duty, Montgomery and Hallenden Canals, and Rochdale Road Bills, were read a third time and passed.

The report of the Greenland Fishery Bill was brought up, and agreed to, and the bill was ordered to be engrossed.

INDIA BUDGET.

Mr. Secretary Dundas moved, That there be laid before the House, Papers containing the accounts relative to the income and expenditure in our several possessions in India. Ordered. Likewise gave notice, that he would, on Monday 31st, make his annual statement of the situation of our affairs there, in conformity to the statute in that case made and provided.

NAVY BILLS.

The report of the Bill for regulating the payment of Navy Bills, having been brought up and read, *The Chancellor of the Exchequer* brought up a clause, providing, "that all Navy Bills issued on or after April 5th, 1794, should be paid within the course of fifteen months after their date. The Chancellor of the Exchequer observed, that Navy Bills had been funded up to the 31st of last March; but that a question had arisen on a doubt entertained by those who were concerned in Navy Bills, as to what was the situation of those bills that had been issued between the 31st of March 1793, and the 5th of April 1794, and for which no provision was made by this Bill. He said it was an established rule, that all Navy Bills should be

paid according to their date; and therefore as all bills issued on the 5th of April 1794, would be paid in 15 months after that time, in conformity to the clause just brought up, all bills also must be paid that were issued before that period. This, he said, he thought proper to state, in order to remove any doubt that might be entertained on the subject. Having made this general regulation as applicable to all Navy Bills, it was needless to specify any of the classes. This clause was read, agreed to, and the Bill was ordered to be ingrossed.

ALIEN BILL.

Mr. Thompson rose, he said, in consequence of the notice he had given, in order to call the attention of the House to the subject of the Alien Bill, and to bring forward the motion which he had announced on a former day, and which he deemed of particular consequence upon the present occasion. In doing this, he trusted that he should be free from the imputation of party motives, so commonly attributed to every proposition that came from that side of the House: By the motion he should have the honour to submit to the House, he said, there was no intention to interrupt the passing of the Alien Bill then before the House. It would, however, be necessary to advert to the circumstance and the period under which the Bill was passed; a Bill which, in his opinion, served most effectually to open the eyes of the nation with respect to the system of political deception that had been practised on them.

The great question of Parliamentary Reform had been previously agitated in that Assembly under the sanction of the people, and with the approbation and countenance of several popular characters. Various societies, for the support of that measure, had been formed throughout the kingdom, when ministers immediately thought proper to combat it; and it was accordingly combated, not only by Treasury newspapers and Gazette proclamations, but by every method they could possibly devise. All who supported the question of Parliamentary Reform were vilified by the names of Democrats and Jacobins, an anxious wish for liberty was disgraced by the name of a desire of anarchy, and to demand an equal right of representation was construed into an intention to provoke rebellion. When the French overturned that system of government under which they had long groaned, and which was universally allowed to be insufferably cruel; when they hurled Louis XVI. from the throne of despotism, they were also said to meditate the martyrdom of George III. and every Sovereign in Europe. The first they had accomplished, and put it out of the power of all the allied powers upon earth to replace it; but

but the latter, as he believed they never did intend, so, if they should intend it, he believed they never would accomplish, because the English monarchy was placed on too secure a basis to be shaken, the loyalty and affections of the people. Administration might be disliked, but the constitution was beloved and revered. Ministers, therefore, perceiving every day that they were more and more disliked, and aware that they could not be safe if they persisted in the plans they had adopted, with haste began to fortify the Tower and embody the militia; and though the people wished to preserve their constitution, the trumpet of alarm was sounded, its standard was erected, many resorted to it, and the most extraordinary coalitions immediately were formed. One Right Hon. Gentleman, who had often before laughed at the lace and frippery of ministers, suddenly became their admiring enthusiast, and like all converts was one of the most zealous and most eager to support their cause: Some of those who had been most in the habits of exclaiming against the confidence claimed so amply by the ministry, and others, Peers as well as Commoners, who had been most active in condemnation of all their measures.

A Learned Gentleman in Scotland, desirous of making himself conspicuous, followed the example of one of his learned brethren in England; and though the country was in general most loyally and peaceably disposed, terrified it with the outcry of sedition. Prosecutions were instituted, and the sentences and rigorous perseverance in their severity in its fullest extent were notable instances of the lenity of the Scotch court of criminal law, and the candour and temper of British ministers. A Noble Lord, upon the same authority, took possession of the Great Seal of England, to which he would most kindly have joined in union that of the sister country. Another Noble Lord had thought a blue ribband preferable to a green one; while an Honourable Baronet conceived a commissary's honours and emoluments at Toulon superior to any cordial and disinterested attachment. The Alien Bill was introduced under such circumstances and at such a moment; a Bill that had properly been called the most novel and extraordinary ever offered to the consideration of that House; a Bill, which, in the words of an Hon. Friend of his, was in its effect a temporary suspension of that birth-right of Englishmen, the Habeas Corpus Act, which ought never to be suspended, and which, sooner or later, he hoped to see ministers restore.—[*Mr. Thompson* was proceeding in his exordium, when several Gentlemen on the opposite side called him to order.]

By this Bill the sole authority became vested in the hands of the executive government, and the people were told that they

were to trust to the ministers' discretion and humanity. The discretion and humanity of ministers had been exemplified, as he had just stated, in their treatment of Messrs. Muir and Palmer, and their refusal to listen to a proposal to interfere mercifully in the case of La Fayette.

The Right Hon. Secretary for the Home Department had, on a former occasion, complained of his incapability to discharge the duties of the various stations he had undertaken; for his part, he most sincerely wished, that any other of his duties were to be performed by deputy than that annexed to this Bill, under the operation of which, many aliens, whose residence for a long series of years in this country had established an extensive trade and peculiar connexions, were ordered on the sudden to abandon all their views in life, to leave their friends, and to depart the kingdom; not upon conviction of guilt, but upon mere report and conjecture. Mr. Thompson lamented that such an instrument of such arbitrary power and oppression should be placed in the hands of any magistrate. He remarked that the aliens who had been ordered to quit the kingdom were not the natives of France only, but of other countries, and were consequently subjected to still greater evils. Whenever a man formerly breathed the air of England he was nominated free, but that axiom prevailed no longer. One truth, however, is still manifest, that they who have the power of executing what they please, would soon forget to execute only what they ought; in pursuance of the latter principle ministers had ordered some persons to leave the kingdom whom they ought not to have driven away. And various other cases had occurred which were repugnant to the principle on which Parliament had passed the Bill. In all this, however, he wished to be understood as not insinuating any thing to the prejudice of the Secretary of State (Mr. Dundas): The truth was, that Right Hon. Gentleman had only nominally the execution of the Bill, the whole of it being unavoidably, and almost entirely, left to subordinate persons, who had frequently abused the trust reposed in them. These facts he would undertake to prove, if the House should agree to his motion, which was, "That there be laid before the House a list of all foreigners who have been ordered to quit this country under the power of the Alien Bill."

Mr. Whitbread, jun. seconded the motion.

Mr. Secretary Dundas looked upon the motion before the House as neither more nor less than proposing a question, Whether the Alien Bill should, or should not, be continued? The principle of that Bill was confidence in the executive government of this country, that they would not order any foreigner to quit it without having some sufficient and strong reason

reason for it. If that confidence, which was the foundation of the Bill, ought to be withdrawn, there ought certainly to be an end of the Bill, and then the motion would perhaps be right enough; but if it appeared to the House that such confidence ought on grounds of expediency and policy to be continued, he saw many reasons why the list just moved for should not be granted. It had been said, that the Bill had, in many instances, been too rigorously executed. He believed, that if the Hon. Gentleman who brought this matter forward thought so, he was pretty nearly, if not altogether, singular in that opinion; for one complaint of that sort he had heard twenty of an opposite nature, and stating instances of too much indifference and lenity. It was, however, impossible for him to mention any particulars about the merits of any case whatever under the power of the Alien Bill, or to assign any reason for sending any one person away from this country, because, as he had before stated, the whole of the power of that Bill was given under a confidence that the power would not be improperly used, and that the circumstances which called for its exercise neither ought to be nor would be disclosed. Another reason appeared to him to be a strong one against complying with the motion: The list required by the motion would publish to the world at large the names of all those whom the executive government of this country had thought dangerous persons to live here. That would be a hardship on such persons, which he saw no reason to inflict, as it might be the means of rendering their situation in other countries extremely disagreeable, and perhaps dangerous. Why should we do so? Was it not enough for us to serve ourselves, and leave other states to pursue their own measures as they might think fit on such matters? He said, that having thus far explained himself, he would decline following the Hon. Gentleman into the other topics which he had brought forward, and would content himself with objecting to the motion, as useless in its operation, and unjust in its effects.

Mr. Sheridan having desired the question to be read, observed, that the Right Hon. Gentleman who opposed the motion (whether he attended to it or not, he could not pretend to say) did not seem properly to understand the meaning of it; because the Right Hon. Gentleman had argued as if they were about to discuss the motives which operated in their having ordered each individual away; whereas he agreed on the propriety of concealing the circumstances of each particular case, and of giving ministers credit for their motives in acting under this Bill: Such observations would be better when the motion should be followed up by something that should call
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for that sort of vindication: Which certainly was not the case at present. He proceeded to shew that the confidence mentioned by the Secretary of State as the basis of the Bill, might be abused by inferior agents and officers; indeed, he said, he had some reason to think such was the case, and had waited on the Right Hon. Gentleman, from whom he was happy to have an opportunity of acknowledging, that he had experienced the greatest attention and civility, as well as redress, to the objects for whom he interfered, and for which he begged the Secretary of State to accept his personal thanks. This, however, proved that abuses have taken place, and might be repeated; to prevent which, the list moved for promised at least to have some effect. He could not agree with the Right Hon. Gentleman, that it was improper to publish the names of those whom we thought too suspicious in character to remain with us: This was paying a bad compliment to our allies (which, by the way, were very nearly all Europe) in the war against France: But this proved that we had not made the cause so common a cause as was once imagined, and he was extremely glad to hear that the fact was so. The abuse of power under the Alien Bill, he must again repeat, ought to be an object of investigation, in order that similar instances of abuse might be avoided in future. Some persons had been ordered away as suspicious characters, who had, on further inquiry, been found to have been subjects good enough to be naturalized by Act of Parliament. He did not wish this question to be pushed to a division, but he hoped the discussion would be followed by one good effect at least, viz. that ministers would be more cautious than they had been as to the orders they give for persons to quit the kingdom.

The motion was put, and negatived.

SUBSCRIPTION FOR RAISING TROOPS.

Mr. Sheridan, in pursuance of the notice he had given on the preceding Friday, proceeded to call the attention of the House to the subject of raising troops in this country by subscription. It would not, he said, be necessary for him to enter into any arguments at present on the general question, as he had learnt, since he came into the House, that the Right Hon. Chancellor of the Exchequer had made a good use of the interval that had elapsed between the notice and the motion intended to have been made that day, and changed the determination he had expressed upon a former night, and was ready to grant the Papers required. Indeed, he could not conceive but that the Hon. Gentleman must, upon consideration, see the utter impossibility of withholding those Papers.

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In this the Right Hon. Gentleman had acted wisely and well: He had benefited by the lesson of prudence given to him on another occasion (the Petition of Mr. Palmer), and therefore nothing more need be said on that subject, and more particularly as this matter must be discussed hereafter. But it appeared to him necessary to say a few words on points which arose out of this question, and were very materially connected with it. Equally aware, and regardless of the imputations so liberally bestowed upon all who stepped forward in opposition to ministers, of a wish to interfere improperly with Government, and to endanger the safety of the kingdom; he trusted, whenever opportunity should offer, an occasion which he most seriously deprecated, that they would be found as hearty in the support of the realm, as any set of men whatever. He wished to see the kingdom, as he hoped and trusted every man in it sincerely did, put into a state of defence equal to its danger, and the more so, if the rumour was true, so confidently circulated and so much credited, that we had lost the aid of one of the great powers in the grand alliance; it was stated, that the great Monarch alluded to, had actually withdrawn himself from the common cause against France. Ministers, it was generally said, had been shamefully negligent with regard to the safety of our coast; for at this very moment, public report had it, that a party of the enemy had landed on our coast, and had committed devastations in Northumberland, and that the Mayor of Newcastle, upon being applied to for assistance to repel the invaders, had stated, that he had none to spare. Notwithstanding all the obloquy cast on the Gentlemen on that side of the House by certain interested persons, they would, he had no doubt, be found, as he had before stated them to be, as eager to unite in the most earnest desire of preserving the interest of the country as well, perhaps better, as those who talked so much of their patriotism; and who, in truth, seemed to recede from duty, as they advanced in boasting of the manner in which they performed it.

Having said so much to prove that ministers had not been remarkably careful of our coast, he must say a word or two on the manner they had endeavoured to proceed in open violation of the constitution. He did not mean at that moment to debate the subject at length, because another day was to be occupied by the discussion; but he would say, that an application from ministers to any body of men for the raising a voluntary contribution towards supporting a military power in this country, was wholly and perfectly illegal and unconstitutional. At that moment a description of persons were deliberating on the best mode of raising men, and of paying

them when raised, independent of the Parliament of the country; and this too not merely as a voluntary act of their own, but on the express requisition of the Secretary of State; and this had been followed up by an advertisement in the public papers, worded in a manner that seemed to indicate that those who did not join it, had views hostile to the constitution of the country. He read from some of the newspapers several advertisements, and particularly one for a meeting at Kingston, in the county of Surrey, on the 27th day of the month, whereby the Lord Lieutenant, High Sheriff, Grand Jury, &c. were called upon to consider of the best plan for the internal defence of the country. He might, and he dared to say he should be told, that it was not the intention of ministers to put these troops under pay, until the plan of raising them, and the mode of paying them, should have received the sanction of Parliament. But why was Parliament passed by in any stage of this very important business? Why did ministers resort to Lords Lieutenants and Grand Juries, instead of the House of Commons; the only place to which they could legally and constitutionally apply upon the subject? Were he, for instance, to go to this Kingston meeting, and ask these gentlemen what they were about, they would probably answer him, "You are a mere Member of the House of Commons; you know nothing of this business as yet; when we have settled the whole of the plan, it shall be laid before you by the Secretary of State; he will explain what we determined upon; that is the readiest way." And after that the ministers would have nothing more to do than bring in a Bill of Indemnity for raising troops, and paying them, without the interference of the House of Commons. He should then say no more on the subject: But would only move, "That an humble Address be presented to his Majesty, praying that he will be graciously pleased to give directions that there be laid before this House a Copy of the Letter dated Whitehall, the 14th of March, to the Lords Lieutenants of several Counties, together with all Plans and other Proceedings proposed thereon."

Mr. Martin said, that some time since he had declared, that he had made up his mind never to be surprised at any thing that should be done by the present administration. After the numerous and extremely severe punishments that had been inflicted on several individuals for avowing political opinions, after the general system of erecting barracks all over the kingdom, after the introduction of foreign troops without the consent of Parliament, this measure appeared to him to crown the whole.

Mr.

Mr. Western felt himself under the necessity of declaring the conviction of his mind upon this very important subject. He said the constitution, in its vital principle, was attacked, was violated, and the dignity of the House of Commons grossly insulted, by the measure under the consideration of the House; and for the further discussion of which the motion before them was a material and a leading step. For his part, he must confess his astonishment was excited, and his indignation roused, when he was told that the executive Government of this free country had made application to the Lords Lieutenants of the counties, stating to them, a necessity of raising a military force, of which the House of Commons was kept in profound ignorance, of calling upon individuals to open their purses to support a military plan, no part of which had been previously submitted to their Representatives in Parliament. Did the House reflect on what this might lead to if not resisted and opposed? If the executive Government could raise supplies under the name of benevolences for service, solicited or unsolicited, supplies could easily raise armies, and before armies all our liberties must fall. Had they forgotten, that on the power of raising supplies depended their very existence? Had they forgotten that the nature and essence of Parliament altogether were founded on the power they possessed of concerting measures offensive and defensive for the safety of the country, and to give the Throne advice in such cases; and also to have exclusive dominion over the purse of the Public, and to direct the means of raising money for the support of all public plans whatever? Was it to be endured that a minister should tell the House of Commons, "I will not state to you what I intend to do in a time of great emergency; I shall send down my plan to the Lord Lieutenants of different counties; I shall require them to recommend my system to the Grand Juries, and between us the business shall be made up; and at my leisure I shall shew you what we have agreed upon?" This, *Mr. Western* said, extraordinary as it was, when it was placed in its true point of view, was certainly the amount of what the present plan might lead to, and then the whole of the internal defence of the country would depend not upon the Great Council of the nation, as the constitution designed, but upon the extensive authority supported by individuals. If this were to be the case, was it not obvious that the House of Commons would be robbed of all its authority? Could any thing be more plain than that if the executive Government could raise supplies by any means whatever, without application to the House of Commons, there was an end at once of all the object of representation of the

the people, since the representatives were stripped of the only power that made them formidable to the Crown in ambitious projects, and useful to the people? The King, by pursuing such a practice, might by and by raise an army, and maintain it, without any power remaining to the people to check it; that army might be employed to the complete destruction of their liberties; and what would the people have to resort to as an effectual means to oppose measures so important to their dearest interests? It was too alarming to think of. He might be told that there need be no alarm felt on the constitutional point, for that this was only part of a plan, and that the whole of the measure, when matured, should after this be submitted to the House. No man, in his opinion, could be satisfied with such a promise, without sacrificing the rights of his constituents. In fact there was no attending to it for an instant without observing that it was pregnant with the most alarming danger. Did the House see the situation they were in? Supposing they assented to this on the principle of confidence, what was their surety that they would not be dissolved tomorrow? Had the House received the least previous intimation that such a step as this was intended to be taken? None whatever. The whole of this business appeared to him to be exceedingly alarming; and he lamented that when this application came from the executive authority to various classes of the people, they did not return a constitutional answer; "Go to our Representatives with your Plan, and let them decide upon its propriety, before we are called upon to infringe their province." He gave an account of the proceedings had before the Grand Jury in Essex, where he attended, and where he did every thing in his power to awaken them to a sense of the danger to the constitution; but after the matter was debated, the majority decided, not as he could have wished, but, however, not so indiscreetly as to approve altogether of the measure; they agreed to deliberate on the subject, and to give an answer in general terms, without pledging themselves to any thing specifically. Mr. Western said, he should trouble the House no further; he could only say he never heard of a measure that appeared to him to be more clearly unconstitutional, or more dangerous, than the present.

The Chancellor of the Exchequer said, he would not detain the House a single moment, because any discussion or argument on the principle of the measure would be much more usefully or effectually considered when the House was in possession of the paper. He only wished to remind the House of the principle he had stated before, and that principle was, that voluntary contributions of the subject for the purpose of assisting

sisting levies, those levies receiving the sanction of Parliament, was a measure perfectly legal, in his opinion, and perfectly consonant to precedent and practice, on repeated occasions, on which the zeal of the subject had been manifested in moments of national emergency.

The Hon. Gentleman who had just sat down, had said, the measure had been adopted without any previous communication or intimation to the House that such a measure was in agitation. He begged leave to say, that statement was incorrect, because the circular letters alluded to in the motion, were only intended to obtain every practicable information on the system in view, so as to digest it into a regular shape, in order to submit it to Parliament for their judgment, and to obtain the sanction of the House for the measure of internal defence, and to take their opinion on the probable means of supporting that measure. When he brought in the Bill for augmenting the Militia, he had expressly stated, that a voluntary contribution of the subject to provide for an armed force, sanctioned by Parliament, was both legal and constitutional, and in fact had often in different periods of our history been practised in this country. He had also on that day stated, that further measures might be found necessary, beside the augmentation of the militia; but that the plan was not sufficiently digested to submit to the House.

He was more surprised that Gentlemen should complain of want of information on this subject, as, when the Militia Bill was proposed, some had expressly declared, that though they agreed to that augmentation, yet they should oppose the other plan alluded to, namely, Independent Volunteer Corps. He concluded with assuring the House that a Message was to be delivered to that House the next day from his Majesty on the subject.

Mr. Fox was decidedly of opinion that the Hon. Gentleman (*Mr. Western*) had been sufficiently correct, when he stated that no proper intimation had been given previously; but supposing that he had not been correct, suppose that he was out of the House, or suppose that he should have been so deficient and so wanting in taste not to give that attention to the Right Hon. Gentleman's speeches which he so earnestly desired; in what he had asserted, he would be justified, because it was not certainly an intimation of which he was bound to take notice, or to report to his constituents. *Mr. Fox* confessed that he himself was present, that he had heard the debate, though not the Right Hon. Gentleman's speech, from which he had understood that some measures were to be taken, but not such as were contrary to precedent and the practice

practice of the House. He held the same opinion with the minorities of 1778, both of Lords and Commons; but even had he at that time belonged to the majority, he should not certainly consider it a precedent. The whole defence on that occasion was, that those contributions were purely voluntary and *bond fide* spontaneous; that there had not been a hint from the Crown, given by any of his Majesty's servants; and that there was nothing that could be construed into an application for money in the most remote manner.

Mr. Fox said, he had before been of opinion, that the Right Hon. Gentleman merely meant to consult the counties, and take their advice upon the measure. But it now turned out, that there had been a direct official application from the King's Secretary of State; and it was a maxim universally maintained, when a Secretary of State wrote a letter of that kind, though he did not say, "I am commanded by his Majesty, &c." it did imply a command, and that the Secretary of State was acting under authority and in obedience to such a command. He was, therefore, clearly to understand, that the King had sent his mandate to different parts of the country, to ask, without the consent of Parliament, who would, and who would not, contribute what was necessary for the defence of the country. He thought such a proceeding so unconstitutional, that he hoped they should soon have an opportunity of discussing the business at length. Mr. Fox said, he much doubted whether the fear of external danger had not exposed us to still greater from within, because he saw in the advertisement of the meeting called in Surry, by Lord Onslow and the Sheriff, that the gentlemen of the county were called on to contribute, not without an insinuation, or rather threat, that those who refused would be considered as enemies to their country. Parliament was now actually sitting; and the Representatives of the People of England had been convened expressly to consider whether they would, or would not, comply with the requests of his Majesty; and yet his Majesty, by his Secretary of State, was levying money on his subjects without the consent of that House, although the constitution, by explicit statutes, had expressed, that money shall not be given to the executive power, unless voted by Parliament; and after the proceeding had taken place, the Parliament is to be called on to indemnify ministers for an act which had never received their concurrence. Mr. Fox professed a readiness to meet the point fully in argument, and had no doubt, that in part of the case he should succeed, whether the fear which had taken possession of the House, respecting the fate of the war, might not cause them to be less alert in asserting their rights against the illegal

illegal practice of ministers, as this conjecture was a question, on the issue of which his expectations were not quite so sanguine.

Mr. Francis said, he was present at the debate, on a former day, alluded to by the Chancellor of the Exchequer, and had listened with attention to every word he had said on that occasion, concerning the extreme danger the country was actually in, and the urgent necessity of resorting to extraordinary measures of defence, upon which he himself, at the time, had offered some remarks. He confessed, it was true that the Right Hon. Gentleman had then stated an intimation to the House, that it was in the contemplation of Government to propose a very great augmentation of the militia; but *Mr. Francis* took upon him to assert, from the most clear and positive recollection, in which he was absolutely sure that he could not be mistaken, that, as to the point now in issue, *viz.* whether he had stated an intention of applying to the bounty or loyalty of individuals to raise money by private contribution for the purpose of raising or paying the militia, or for any other object whatsoever, the Right Hon. Gentleman had not said one word, or suggested the most distant intimation; that, consequently, his answer to the objection offered by *Mr. Western* was not in point, and fell to the ground. As to the surprise and astonishment expressed by an Hon. Gentleman near him (*Mr. Martin*) at the unconstitutional measures brought forward from day to day by the Chancellor of the Exchequer, he had seen too much of that Right Hon. Gentleman's principles and conduct to be much surprised at any attempts of the kind coming from that quarter. But he confessed he was surprised at the manner in which this last measure was attempted to be brought about, considering the whole transaction in its form to be as superfluous and unnecessary as it was illegal and dangerous in its example and effect. Why should the King's minister resort to these irregular courses to levy armies, or raise money to pay them? What occasion had he to pass by the House of Commons? Did they ever make a difficulty? Did they ever refuse? Were they not at all times as ready to grant, as he could be to ask? Was he not sure of their support? Was it not an affront to the House to question their readiness to support Government in every thing necessary and proper? Then where was the necessity of applying for money to any other persons? What useful purpose was it to answer? "Yes, Sir, it will answer a purpose which this House ought to reprobate with severest indignation." In the first place, it created a precedent against the rights of the House of Commons; that was something. The door was open; the Right Hon. Gentleman had only to knock and be admitted. Why should

should he prefer going in at the window? The first would have been the course which an honest man would have pursued; the other was the act of a robber and an assassin. But it did more; it enabled the minister to draw lines of distinction, and to sow jealousies and enmities among his Majesty's subjects; to mark one man out as a person of prodigious loyalty, if he contributed; the other as disloyal or disaffected, if he refused. With regard to himself, Mr. Francis said, he should soon have an opportunity of shewing that Right Hon. Gentleman how little he valued his power, his abilities, or his artifices. A meeting of the gentry and other persons of property in the county of Surry, was advertised by the Sheriff to be held at Kingston on Thursday next: He was a freeholder of Surry, and was determined to attend that meeting on purpose to make himself that *marked man* which the measure had in view; and to distinguish himself, to the utmost of his power, by his opposition to the treacherous and pernicious schemes of the King's minister, directed, as he saw they were, to the utter and instant ruin of the constitution.

The Chancellor of the Exchequer said, he did not mean to state that he had given the House any information of a subscription, but that some mode was to be adopted for raising a certain force.

Mr. Taylor explained the sort of impression the speech of the Chancellor of the Exchequer had made on his mind, when the Bill for augmenting the militia was opened; as also what he said himself on that subject. There certainly was no intimation given of any thing like the measure that followed.

Sir James Sanderson was of opinion, that such a measure as the present should have originated in Parliament, as all measures of Ways and Means, and Supply, and all grants of money, usually and invariably did; he nevertheless said, that when the paper was produced, he had no doubt but he should hear arguments drawn from precedents, and from the state of the country, which might justify extraordinary measures. It had been said, the Chancellor of the Exchequer had given no previous intimation of this measure. He, for one, owned that he thought an intimation had been given, and that an Hon. Member (*Mr. Vansittart*) had expressly stated that this measure was taken into consideration by the county of Berks; but he entertained no doubt that when the circumstances came before the House, the minister would assign sufficient reasons for the justification of his conduct.

Mr. Serjeant Adair said, he was sorry that the question had been brought forward in the manner it had been. Were he obliged to give an opinion upon the legality of subscriptions for levying

evying any military force within the kingdom, without the previous sanction of Parliament, he would say it was certainly illegal, because it must be admitted, that if government should actually *apply* any of the money raised by free and voluntary subscription without the consent of Parliament, it would be a fit object for the jealousy and attention of the House; but he saw nothing at present which required any measure to be proposed. At this critical period, when the circumstances of the times, and when mens minds, were considered, when men were stimulated by powerful and extraordinary motives of action, he could perceive no good consequence which could flow from discussing and agitating abstract questions. He considered the conduct of his Majesty's ministers on this occasion to have been directed by the expediency of the moment, and not with any view of making dangerous encroachments. But he hoped means would be taken to render unnecessary the proposed discussion. As a Bill was shortly to be passed for the purpose of increasing the militia, any clause in that Bill, empowering persons to subscribe for the purposes thereof, would at once legalize the measure, and supersede the necessity of agitating the present question. He threw this out in order to avoid the further discussion of an abstract subject, which only went to increase precedents, which were afterwards brought forward to support measures very different from those which gave them birth.

Mr. Grey said, he was always sorry to differ with the Hon. and Learned Gentleman, and particularly on questions which he considered to be of the greatest importance. In this case he saw a very strong necessity for discussing what the Learned Gentleman called the "abstract question," and that necessity arose from the conduct which his Majesty's ministers had followed, by first doing that which the Learned Gentleman allowed to be illegal, and then coming to what they ought to have begun with, namely, asking the sanction of Parliament. He was convinced that the only mode that could be adopted to heal the wound the constitution had received, would be by a resolution of that House, founded upon the order of Council, expressive of the illegality and impropriety of that measure. The necessity for such discussions could not be made more manifest, than by an attention to the conduct of ministers of late. They had erected barracks, and had landed foreign troops in this country, in a manner perfectly illegal: At the same time so far were they from thinking a Bill of Indemnity necessary, that, after waiting to see if they would have the modesty and propriety to bring one forward, it had been at last moved for,

from the side of the House on which he sat, and met with avowed opposition from them and their friends. In defiance of every attempt that could be made to justify these measures, and prevent them from becoming precedents, he could not help saying, that in his mind they were perfectly illegal.

When so much had been said about the internal defence of the country, by augmenting the militia, and resorting to means of raising other land forces, he wished more attention was paid by the Admiralty to the naval strength, and to the protection of the maritime counties in this kingdom. He adverted to letters received from the Mayor of Newcastle, stating, that three French privateers had landed their crews, and had committed several depredations on that coast, and carried off the sheep and cattle from two different estates. And all the time that they had the command of that coast, such was the negligence of the Admiralty, that there was not a single ship of war from Shields to Leith, and so no protection to the trade on that coast.

Mr. Grey said, there was one question which had been particularly put by some Honourable Friends of his, and which had not yet received an answer from ministers; it was respecting a rumour that prevailed every-where for some days past, and was received with every appearance of a truth: He meant this plain question, Whether the King of Prussia had, or had not, withdrawn from the confederacy of the powers allied against France? and thus left us engaged in a destructive and expensive war, after taking from us so essential a part of the support which he was bound to give. He considered the whole of this question as requiring, from its importance, a speedy discussion; In hopes, therefore, that it would soon come before the House, he would not then detain them longer.

Sir Matthew White Ridley confirmed the fact stated by Mr. Sheridan and Mr. Grey, relative to the French having landed in Northumberland, and plundered part of the coast. *Sir Matthew* read three letters from different persons there, which further stated the answer of the Mayor of Newcastle to be as Mr. Grey had asserted. This *Sir Matthew* considered as a proof of neglect on the part of the Admiralty.

Mr. Brandling differed from the opinion that had been stated by his Hon. Colleague. No man lamented more than he did the circumstance of a few sheep and cattle having been taken away by the French; but was that a reason for imputing blame to the conduct of the Admiralty? Most certainly not. Besides, that House would recollect the strong terms in which the

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the merchants of Newcastle had recently expressed their approbation of the protection that had been afforded the trade of that place.

Mr. Secretary Dundas said, he had heard of the circumstance alluded to, and he expressed himself as much concerned as any man, that the property of people on the coast should have suffered from the depredations of the French; but did not think that any blame upon that account ought by any means to attach to the Admiralty, or any of his Majesty's servants. It must always be expected, that in time of war the French should have a number of cruizers on the north coast; and, assisted by the smugglers, it was not difficult for them to commit temporary depredations. In a former discussion it was explained, that so well protected was that part of the country, that but a single vessel belonging to it had been taken by the enemy; but though we had a greater number of cruizers than the French, yet it was impossible to have that sort of perfect security, that at some particular period an enemy might not make a momentary incursion. This arose from the nature and extent of the coast; and it would appear evidently to any person acquainted with it, that an armed force stationed at Shields could not immediately give assistance to the castle of Banbury, where this descent was stated to have been made.

As to the legality of the letter sent by him to the Lords Lieutenants of Counties, he was ready to defend it whenever it might be necessary and proper to enter into its discussion.

Mr. Sheridan said, that since the Right Hon. Gentleman, upon reconsidering what he had said on a former day, had agreed to lay the papers called for upon the table, he would not then trouble the House more at large. Nothing which had fallen from Gentlemen on the other side of the House, or from his Learned Friend (Mr. Adair), could induce him to relinquish the discussion upon this subject; that it was by no means to be considered an abstract question, which had been unnecessarily brought forward merely to agitate the existence of a right, before such right had been violated; but to restrain the further violation of a right already infringed upon. But as he considered the discussion of the question to be of the first importance, there was not a moment to be lost in going into it. If, therefore, a message was delivered from the King next day, and an address of thanks moved for the communication, he would then take an opportunity of moving an amendment to the address, unless the Right Hon. Gentleman, as he had done several times this session, should think that the message itself was sufficient, without any comment or notice from

Parliament; and in that case he would feel himself obliged to bring the matter forward as early as possible in some other way. It was absolutely necessary that it should take place soon, because different meetings in Surry, Kent, and other counties, were to be called in the course of the week, and he would not hesitate to say, that he thought those meetings illegal and unconstitutional, since they originated in a direct mandate from the King, through the Secretary of State officially, calling the inhabitants to meet for a purpose that was illegal in itself. He hoped the House would not interfere by sending any delegation sanctioned by them to such meetings, except it was by sending the Serjeant at Arms to take Lord Onslow and Mr. Bowles into custody; perhaps, indeed, it might be necessary for him to make a motion to that effect.

The worthy magistrate (Sir James Sanderfon), Mr. Sheridan observed, had confessed that the measure ought to have originated in that House, yet in the same breath he said he should have considered an account of some subscriptions, at a county meeting, a due notice. He adverted to the neglect of the coast. The Right Honourable Secretary of State had said, that it was natural to expect that the French would always have a force in the North Seas in time of war, and that we must be liable to such accidents; the same might be said of the south coast; but he did not think the port of Shields the proper place for stationing a force, but along the coast from Shields to Leith. Mr. Sheridan said, he did not think the Learned Serjeant had displayed his usual discrimination upon the present occasion. He could not answer whether such a clause as he proposed would be brought forward; but if it should, it could only operate as a Bill of Indemnity; and Gentlemen had already shewn a strong dislike to the apprehended disgrace of a Bill of Indemnity.

Mr. Adair spoke a few words in explanation.

Mr. Sheridan's motion was then put, and carried *nem. con.*

HOUSE OF LORDS.

TUESDAY, *March 25.*

MESSAGE FROM THE KING,

Lord Grenville presented a message from his Majesty to the House, stating, that the avowed intentions of the enemy to invade this country had made it necessary for him to increase his land forces; and that, trusting to the concurrence of Parliament in this necessary measure, he had given orders accordingly. His Lordship then added, that he should on the next

next day propose an Address of Thanks to his Majesty for his gracious communication; he therefore moved that all the Lords be summoned to attend.

This motion was put and carried.

The Earl of Lauderdale said, as he understood the papers were to be granted, he therefore would not lengthen the debate. He could not however but congratulate their Lordships on the change of sentiments, in respect to this business, which he perceived in ministers, since the papers were last asked for; for the present, his Lordship said, he would content himself, without any comment, with moving,

"That an humble Address be presented to his Majesty, humbly requesting his Majesty to give directions that there be laid before this House, copies of a circular letter, dated Whitehall, 14th March 1794, addressed to the Lords Lieutenants of counties, *with all communications to them respecting plans, &c.*"

Lord Grenville wished clearly to understand the Noble Earl's motion correctly; he thought the latter part of it intimated something more than was the original intention of the Mover, and rather too much for his Majesty's ministers to grant *ad libitum*.

The Earl of Lauderdale said, it was precisely the words of the motion passed in the Commons.

Lord Grenville did not know what these precise words were. To the motion, so far as it went to produce a copy of the circular letter, he had no objection.

The Earl of Lauderdale then left out his *addenda*, and the motion passed.

MOTION RESPECTING FRANCE.

Earl Stanhope rose to say, that he never was more shocked or surprised than on hearing in a late debate a Noble Earl declare, "that if it were possible to induce a large body of men in France to take up arms against the existing government, and excite internal commotion in that country, it was worth our while to pay any price to obtain that desirable object, as more might be effected by that means than by foreign force." The Earl said, he had taken down the Noble Lord's words at the time. He confessed his obligations to the Noble Lord, who had made use of such a declaration, as far as any man could be obliged to another for having uttered a similar declaration. He was glad that the Noble Lord had spoken out, and wished, if the principles on which the war was to be carried on were such principles, they might be formally made known and avowed. The declaration, his Lordship said, had struck him as an observation so abhorrent to all true policy,

to genuine religion, and even to common humanity—so detestable and abominable in itself, so contrary to the principles of civilized war, and so outrageous to all the feelings of human nature, that he thought it his duty to vindicate the character of the nation from the stain and disgrace of the sentiment, and to disclaim it by a solemn Parliamentary act, as the principle adopted as the means of carrying on the present wicked and atrocious war. He therefore moved, “That their Lordships be summoned to attend their duty in that House on Friday the 4th of April.”

The Earl of Mansfield rose immediately, and began with saying, that he certainly did not mean to offer a reply, or wish to lengthen the debate, as he did not intend to say a syllable on the irregularity of referring to particular words delivered in a former debate at that distance of time. He knew not on what part of the scale of the Noble Earl’s opinion he should stand before he sat down. He wondered not however at the Noble Earl’s inattention to Parliamentary forms and rules of proceeding, because the nearer that House, in its total disregard of order and regularity, was brought to the National Convention of France, the more he was persuaded would it be agreeable to the Noble Earl, who had in so extraordinary a manner taken notice of words, which he was afraid he must confess were delivered by himself; all he meant to say was, that, from the habits in which he had been bred, and at his time of life, he had no desire to make the exchange, pleasing as it might be to the mind of the Noble Earl. He wished that House to adhere to the principles, the practice, and the forms of proceeding adopted by our ancestors, and handed down to the present age by them, in the manner in which he hoped they would be able to hand them down to their successors, and that they might uninterruptedly descend to posterity. The sentiment conveyed by the words alluded to was his, and he should be ready to support and defend it, whenever the Noble Earl thought proper to make it the subject of a motion.

Lord Grenville said, he rose to take notice of the extremely disorderly, the extremely irregular, and he had almost said, the extremely indecent manner in which the Noble Earl had selected a single proposition out of a speech of another Noble Earl; a speech as able, as masterly, as ever was delivered, and for which, from the manly and undisguised avowal of sentiments peculiarly proper to be stated explicitly, he not only begged leave to express his sentiments of gratitude, but he was sure that House and the country would confess their obligations. He repeated it; to select a single proposition from the Noble Earl’s speech at that distance of time from the day on which it

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was delivered, in order to hold it out as an object of censure, was most irregular and disorderly. The orders of that House, his Lordship said, were not to be considered as trifling and nugatory; they were not mere matters of form, but were founded in principles of substantial justice. The regular mode of proceeding, the Noble Earl must know, when any words were delivered in debate that were thought deserving of censure, was immediately to move to have the words taken down, that they might be considered at the moment, and the House be rendered capable of deciding whether they merited censure or not. His Lordship said, he by no means wished to lead the House into debate, but he thought it right to say thus much of the singular conduct of the Noble Earl, whom he begged leave to assure, that whenever the question came under discussion, he should be ready to enter into it, if necessary; and he had great hope, and indeed little doubt, that other Noble Lords would do the same.

The Earl of Lauderdale said, that he could not avoid taking notice of the extraordinary observation of the Noble Secretary of State. Without giving any opinion whatever on the motion of the Noble Earl, and however he might hereafter differ with him on the point of regularity or order in his reference to words which had passed in a former debate, he could not but remind the Noble Secretary of State, that the Noble Earl's conduct was neither new nor unprecedented. He must say, it was a curious thing to hint even an objection to a motion, because some Noble Lord had, on a former day, made an assertion contradictory to such motion. Did the Noble Secretary of State forget that an assertion of a single individual in another House of Parliament, had been made the ground, not merely of a motion, but of repeated Parliamentary proceedings, in the time of the agitation of questions respecting the Regency, on the suggestion of a person nearly connected with the Noble Secretary of State, both by relationship and political situation? No subject was more immediately interesting to every person who wished well to his country, nor any questions more highly important in their nature, than those which were put aside at the time to which he had alluded, to make room for the discussion of the assertion of an individual. The Earl declared he should not have said a word, if the Noble Earl's conduct near him, with respect to the words delivered by his Noble Friend (Earl of Mansfield), had not been noticed in such terms. In fact, the Noble Secretary of State had taken notice of a violation of order, and had not been in order himself.

The Lord Chancellor said, he rose to save the time of the House, and not to detain it five minutes. The Noble Earl had

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certainly been in order in moving to have their Lordships summoned. Any Noble Peer had a right to move for the attendance of the Lords: But it was the duty of Noble Lords to attend in their places every day of sitting; and it was only a matter of usage and decorum to announce the day when a business was to be brought on, so that in fact a summons meant no more than to remind their Lordships of what was their duty as a matter of course. They were now to be summoned for *God knew what* on Friday the 4th of April. When a desire was expressed to have the House to be summoned, it had been usual to explain to what purpose or point their Lordships were to direct their attention. The discussion, however, that the Noble Earl had provoked, he was not extremely sorry for, as it had been of some use.

Earl Stanhope observed, that nothing the Learned Lord on the woolsack had said, tended to prove that he had been guilty of breach of order. The Learned Lord had said, that in moving for the House to be summoned, he was right. If the Noble Secretary of State had not been so eager to question his regularity, he might have recollected that he was answering a motion which had not been made. He did not censure the words of the Noble Earl as delivered in debate; but from those words he had inferred the necessity of bringing forward a question on the subject of the principles avowed on that occasion. So far was he from wishing to disguise his object, he would inform the Noble and Learned Lord that he meant on the 4th of April to move for leave to bring in a Bill, to make it *Felony, without the Benefit of Clergy*, for his Majesty's ministers, or any other person, to advise his Majesty to use such atrocious means of carrying on the war, as to adopt any measure for creating and fomenting a civil war in France, or to intermeddle in their internal affairs. This, his Lordship said, he considered as the most felonious, abominable, and detestable act that it was possible to commit; and he would not cease to reprobate it with his last breath. He therefore proposed that his motion be taken into consideration on the 4th of April.

Lord Grenville rose again. He had not spoken of a motion, neither known nor made, but of the Noble Earl's disorderly conduct in relation to words making part of a speech actually delivered, which the Noble Earl had held up by way of censure.

The motion for summoning the House was put and agreed to.

Earl Stanhope then said, he had another motion to make; upon which he should not divide the House, but should put it upon

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upon the Journals. On a motion so interesting, it was the duty of all their Lordships to attend; and he should therefore move what was equal to a Call of the House in the Commons, and what had been practised in a very recent instance, "That the Lord Chancellor be directed to write Letters to all the Lords, Spiritual and Temporal, requiring them to attend their duty in that House on Friday the 4th of April next."

The question was put, and *negatived*. Adjourned.

HOUSE OF COMMONS.

TUESDAY, *March 25.*

A new writ was ordered for Perth, in the room of *General Murray*, deceased.

The Alien Bill was reported, and ordered to be engrossed.

A Petition was presented from Mr. Braithwaite against the Skelton Inclosure Bill, which was referred to the Committee on the Bill, and to be supported by counsel—All to have voices.

The Navy Bills and Ripon Road Bills were read the third time, and passed.

Mr. Curzon's Petition for a deviation of the line of Ashby-de-la-Zouch Canal, was reported, and an instruction given to the Committee on the Bill to make provision accordingly.

Thirteen accounts respecting Hull Docks were presented.—Ordered to lie on the Table.

The East Harptree and Quarley Inclosures; Ludlow, Woolerton, and Clere Hill Roads, and Tiverton Paving Bills, were reported, and ordered to be engrossed.

CATHOLICS.

The Solicitor General called the attention of the House to the situation of persons of the Catholic persuasion, who were desirous of acting as Attorneys: He stated that some doubts were entertained concerning the strict meaning of the Act of Parliament of the 31st of his present Majesty, as far as it related to persons of that description; and therefore he moved, "That leave be given to bring in a Bill to explain the 31st of his present Majesty, as far as it relates to certain persons therein described, professing the Catholic religion."—Agreed to.

He then moved, "That it be referred to a Committee of the whole House to-morrow."—Ordered.

MESSAGE FROM HIS MAJESTY.

Mr. Secretary Dundas brought down a message from his Majesty, which was to the following effect: That his Majesty thought it proper to acquaint the House, that for the purpose

pose of more effectually guarding against the enemy, he had ordered an augmentation of his land forces, and also a large additional force to be assembled in any part of the kingdom where the enemy should attempt to carry into effect their projected invasion. For the warm and zealous support of this measure, his Majesty relied on the concurrence of his faithful Commons.

Mr. Dundas moved, That his Majesty's Message be taken into consideration on the 27th.

Mr. Sheridan said, that he would make his promised motion at the same time.

The Chancellor of the Exchequer observed, that it would be impossible for the House to take his Majesty's Message into consideration that day, without interfering with the promised motion of an Honourable Gentleman, who, if he did not bring it forward then, would be deprived of the opportunity of making it.

LANDING OF THE FRENCH.

Sir Matthew White Ridley said, he wished to correct the statement he had given the preceding day, of the French having landed and plundered part of the coast of Northumberland. By letters which he had that day received from Newcastle, he found the fact was not so; but that some persons had forged letters, with the names of respectable gentlemen annexed, and which had completely succeeded in deceiving both him and the Mayor of Newcastle. He thought it to be his duty thus publicly to correct his mistake. It was to be regretted, that there should be in this country persons of so infamous a disposition as to propagate so daring a falsehood, and thus to sport with the feelings of the Public. He said he would use all his endeavours to find out who had been guilty of this wanton act of wickedness, in order that, if they could not be punished by law, they might at least be pointed out to the execration of their country.

Mr. Stevens, of the Admiralty, gave an account of the stations of various ships on that part of the coast on which it had been reported that the enemy had landed.

Mr. Brandling bore testimony to the loyalty and zeal of the people in that part of the country, and trusted they would be able to discover the authors of this false report, which had imposed on him as well as on his Honourable Colleagues.

Admiral Gardner said, that the coast of Northumberland was well protected. The Sheerness was stationed at Yarmouth. There was a 44-gun ship at Leith; and the Lord Mulgrave, and two other ships, were at Hull. The Honourable Admiral thought proper to mention this, in answer to what had been said on a former occasion.

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The House was informed by a message from the Lords, that their Lordships had agreed to the Bill for augmenting the Militia without any amendment.

CRIMINAL LAW OF SCOTLAND.

Mr. Adam said, he rose to call the attention of the House a third time, to a subject upon which nothing but a deep sense of its great importance should have induced him again to trouble them. He thought it necessary to remind Gentlemen of his having given notice in last session of Parliament, that he meant early in this session to bring the matter before the House, because that notice was a proof that he was not influenced by subsequent events, but by general principles, in what he had already done and was about to do, and that there was something in the nature of the criminal law of Scotland, totally and completely independent of any recent application of it, that inclined him to think it extremely necessary to call the attention of the House to a full, clear, and ample investigation of the principles on which it was founded. The recent events had tended much to confirm all his former impressions, and he owned he should think himself at liberty to refer to them in illustration of his argument. To enable Gentlemen to follow him with more facility through the detail of a dry subject, he should first state the mode of proceeding which he meant to propose, and the several heads which he wished to be considered under that mode of proceeding. His original intention was to move for leave to bring in a Bill to amend the criminal Law of Scotland, in certain cases specified, and to refer the motion in the usual form to a Committee of Courts of Justice. He meant, however, on better consideration, to take at this time more Parliamentary stages, and to propose that the matters specified in his motion should be referred to a select Committee above stairs, reported upon by that Committee to the House, and the report referred to a Committee of Courts of Justice, as the basis of a Bill to reform and amend, if approved by that Committee. By this plan of proceeding, so serious and so important a subject would be likely to be more frequently and more usefully investigated and discussed. The matters which he should submit to the consideration of the Committee, if granted, should be—Leasing-making according to the Scots law, the nature of the crime, and the extent of the punishment—Sedition, its nature and punishment—The propriety of giving an appeal from the Scots criminal courts, not with a view to impeach former judgments, but to inquire how far there might be fit ground for the interference of the Legislature to grant such appeal in future—The expediency of granting a new trial, when error appeared upon the record, not in matter of law, but in matter of fact,

fact, such, for instance, as refusing to the defendant the benefit of a witness's testimony on the allegation of incompetence, when that allegation was not well founded—In what manner petty juries were returned, and what right of challenge was allowed to the prisoner—The powers of the Lord Advocate in instituting criminal prosecutions; and immediately connected with this head, the expediency of granting to the subject in Scotland, the protection of a grand jury. To these he should add some other matters, *viz.* the power of the criminal courts to punish contempts, and the power of inferior courts to try criminal cases, and punish without the intervention of a jury. He said he should take the liberty of stating a few arguments upon each of these heads, and that he should do it in the inverse order from what he had stated, because those which were first stated had been before discussed pretty much at length, and those which occurred last had not hitherto been touched upon.

Strange as it might seem, it had been held, that Sheriffs' courts, and courts of Justices of Peace, might try without a jury, even for capital offences. In other criminal cases, such courts had actually so tried, and sentenced sometimes to fines, sometimes to corporal punishments; and when their proceedings were brought under review before the Court of Justiciary, by a bill of advocation, the decision upon them was not such as to make it clear in point of law, that these inferior courts had no such jurisdiction. He observed, that this question was not calculated for a large audience; but he was happy to see several Gentlemen acquainted with the laws of that country, who must know that his statements were correct, and be convinced of the defect which existed in those laws. That courts of inferior powers might try causes without a jury, he cited a case. In 1770, one Piscatore was tried in this manner by the Sheriff's court, and sentenced to punishment:—The superior court decided that the Sheriff's court had not jurisdiction in the case; on which Maclaurin, the reporter, observes—"This decision was much applauded; and it is to be hoped will put an end to such trials, except where they are authorized by special statutes, of which there are too many on the books." From these expressions of a very learned lawyer, it was clear, he did not think the decision of the superior court sufficient to remove all future doubts upon the subject; and the jurisdiction itself was one, that he was sure he should not have defended on its own proper merits.

Another point he wished to speak a few words upon, was the power which courts arrogated to themselves with regard to punishing contempts. In this branch of their jurisdiction he

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contended that they should be expressly limited : That no man should be punished for any conduct as a contempt of court, except in the very cause in which he might be before the court, either as plaintiff, defendant, or witness, and not for any matter he should do extraneous to that cause. That such had not been always the conduct of the Court of Justiciary, he shewed from the case of a gentleman of the name of Dunn, who had been lately punished for contempt by the Court of Justiciary, on a charge of spoliation, in tearing out some leaves from a book intended to be adduced as evidence on some future trial. He was ready to admit, that every court ought to possess the power of punishing for contempt, when the contempt arose out of any case pending before the court ; but not of punishing as a contempt an act done at a time when nothing to which that act had relation was under their cognizance. The act of spoliation alleged against Mr. Dunn, was committed before the case, on which the book from which the leaves were torn was to be produced as evidence, came before the court, and even before the precognition, on which the libel or indictment was to be founded, had been taken before the Sheriff. He was not informed whether or not Mr. Dunn objected to the jurisdiction of the court ; but for this act he was ready to prove that Mr. Dunn had been imprisoned for a contempt, which was an extension of jurisdiction by the court, which he thought the House would consider as fit to be inquired into.

The next point to which he adverted, was the power of the Sheriffs and other Magistrates, with regard to taking informations against persons accused of any criminal offence ; upon which informations alone, the indictments were founded.

In England no man could by law be put upon his trial for a criminal charge, till a bill had been found against him by the grand jury, except in cases of information, in which case the defendant was entitled to shew cause why the information had not been granted by the court. There were, he admitted, cases in which the Attorney-General might proceed by information *ex officio* ; but his Majesty's present Attorney-General had often, much to his honour, declined that privilege, and proceeded by the more constitutional manner, indictment ; and the more frequently he recurred to that mode of proceeding, in preference to that of information *ex officio*, the more deserving would he be of the esteem and regard of his country. In Scotland, all the functions exercised by grand juries here, were vested entirely in the Lord Advocate, who acted as public accuser and prosecutor ; and between the accusation and the trial of the accused, there was nothing to intervene, by which mistake, misapprehension, or malice, might be corrected, explained,

explained, or restrained: After a precognition taken before the Sheriff, or a Justice of Peace, the information, or a copy of it, was transmitted to the Lord Advocate, and with him it rested to decide whether or not it contained sufficient grounds for putting the party upon his trial. He did not know with sufficient accuracy to state it to the House, in what manner these precognitions were taken—whether or not they were taken with shut doors; whether or not the party accused was always placed in such a situation as to feel himself a free agent, and all the necessary forms observed, to afford him that protection to which he was entitled—but this he knew, that there was nothing in the Scots law, to compel the taking of precognitions in such a way as to secure to him these advantages. A provision was made by law, that when the charge came before a jury, the witness should be told that the precognition was destroyed, and could not be produced against him, as an inducement to speak the truth to the jury, whatever he might have said before. This was evidently the intention, but he feared the effect did not always correspond; and therefore he thought the mode of instituting criminal prosecutions, a fit matter of parliamentary inquiry. It needed not many words to convince Gentlemen, that an examination before a grand jury, in the first instance, would be attended with more salutary effects. He knew the difficulties that might be opposed to the introduction of grand juries into the Scots criminal law. Professional men were naturally so much attached to the habits in which they had been educated, and had passed their lives, that it might, perhaps, be said that the people themselves would be unwilling to be called to serve on grand juries. But if the thing proposed was good in itself, this was no argument against it, in the consideration of Parliament, authorised by law and the constitution to legislate for the whole kingdom, when deliberating on a question of so much importance, as the best means of administering and distributing public justice. Whoever had any knowledge of the people of Scotland, must know that there could be no want of men among them well qualified to serve on grand juries, and there was no reason why such men should be excused from doing their duty to the Public. As he was addressing himself to men who were well acquainted with the criminal jurisprudence in both countries, who well knew the excellence of the institution of grand juries, and the great benefits derived from the intervention of a jury between the accused and his trial, he could find no difficulty in saying, that the introduction of this system into Scotland would be attended with singular advantages, and give an essential privilege to the people of that country. No establishment

blishment in the criminal law of England was more universally admitted to be beneficial to the rights and security of the subject than that of grand juries. The introduction of the same sort of security into the Scots criminal law would relieve the Lord Advocate from a very odious, arduous, and ungracious task, and afford the people a protection against the hardships and expence of being brought to trial without sufficient cause. It would be an important privilege in another point of view, for at present all prosecutions, whoever might be the prosecutor, proceeded in the name, or with the concurrence of his Majesty's Advocate: Nothing was more difficult than to obtain redress for a malicious prosecution. No institution was better calculated for forming the character of a people. By attending on grand juries they became acquainted with the jurisprudence of their country, and acquired a superior degree of acuteness in discussing all the principles, without the knowledge of which no people could long be free. The introduction of it into Scotland would therefore be a political as well as a judicial benefit. He next adverted to the manner of constituting the petty jury, which he stated to be faulty in the extreme, liable to undue influence, and subject to no control in behalf of the party accused. The present mode of constituting petty juries, he said, was this: For the shire of Edinburgh, forty-five names were returned by the Sheriff to the Clerk of Justiciary at Edinburgh; and these names must be printed with the libel, or indictment. In all the rest of Scotland, forty-five names were returned by each of three shires forming a circuit; and the whole list was afterwards reduced to forty-five by the Clerk of Justiciary. But, instead of the first fifteen that answered to their names, being sworn, and to pass upon the jury, the names were called at pleasure, which amounted to a power of selecting any fifteen out of the forty-five. This was peculiarly improper in cases of misdemeanour. In England, misdemeanours might be tried before the Justices at the Quarter Sessions; but much the greater part of them were tried at *Nisi Prius*, and there the jury was taken by ballot as directed by the act of George II. an excellent regulation, which might be adopted as the model for Scotland. It was the more necessary to be strict in the mode of taking the jury, because the law of Scotland allowed no challenge but for cause. If in England any communication were proved between the agents for the prosecution and the jury, the whole array might be set aside; but it was not so in Scotland.

On competency of evidence, to prove the having been accessory to any fact charged as criminal, the Act of Parliament

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clearly said, that the crime was to be distinctly charged in the indictment; and therefore he must contend that no evidence ought to be admitted beyond this in point of time or place. The distinction between the competency and the credibility of a witness was well understood in Scotland; and if the witness was competent and willing to answer, his testimony must go to the Jury, however he might prevaricate, because prevarication affected his credibility only, and of that the jury were the proper judges. But although this was the law, it was not the practice of the Scots criminal courts, and therefore the practice ought to be amended. If the testimony of every competent witness did not go to the jury, if the court was to decide what witnesses were fit to be believed and what not, the trial by jury would be a mockery. The practice of English courts was, that a witness, although he might prevaricate, must be heard; and truth had often been drawn from such a witness, to the satisfaction both of court and jury.

The Court of Justiciary had deviated from that wholesome and necessary practice: They had confounded the province of judge and jury; the office of the former being to judge of the law, the latter of the fact. An Honourable Friend of his (Mr. Erskine) had, in cases of libel, carried this still farther, and by his laudable exertions had been instrumental in vesting juries with the power of judging both of the law and the fact. If there was a prevarication, it was a question of credibility, and became a circumstance solely for the jury to decide upon.

On the subject of granting a new trial, he had understood the Lord Advocate to say, that a new trial could not be granted in Scotland on any ground, and that after verdict the prisoner could have recourse only to the mercy of the Sovereign. If that was the law of Scotland, it should not continue to be law: For in every case where either improper evidence had been admitted, or evidence sent to the jury which did not go to the crime charged in the indictment, or evidence should be refused to be admitted; in each of these cases a new trial should be granted. By the law of England the rule was, that if evidence were rejected on the trial which ought to have been admitted, or evidence admitted that ought to have been rejected, a new trial must be granted if the verdict was for the Crown, but not if it was for the subject. The reason was as obvious as it was humane. The competency of evidence was matter of law for the decision of the judge. In deciding upon it judges might err, and the subject was not to suffer by the error of the judge if found guilty, nor to be harassed with repeated trials if acquitted,

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On the subject of there being no arrest of judgment allowed, or appeal to the Lords in Parliament, very little argument would be necessary to prove it; men would naturally wish for an opportunity of re-examining opinions they had advanced, or correcting any error that might have crept into their proceedings: It would be sufficient to state that there did exist a Court of Justice, which hears in the first instance, and determines in the dernier resort: To convince Gentlemen of the necessity of such an appeal, such a court was the Court of Justiciary. He should only say at present that in this instance, and this only, the Scots law was contrary to the whole tenor and practice of the English law. He had moved for correcting this anomaly before; but he was perfectly within the rules of the House in now proposing it as an object of inquiry.

The next subject had been already much discussed; the crime of sedition and leasing-making, a matter well worthy the most serious consideration of the House. He should premise what he had to say upon it, with observing that a grand jury had existed in Scotland, for cases of high treason, since the beginning of this century. By the Act of Anne, passed immediately after the Union, the laws of treason were made the same in both countries, upon the best possible grounds, because the people of both countries were bound by the same duty of allegiance, and treason is the violation of that duty; and this act, and those laws, Mr. Erskine (the best writer upon the laws of Scotland) had embodied in his Institutes. What applied to treason was equally applicable to other offences, more especially to sedition. Sedition, he contended, was a part of the crime of treason, and should be subjected to the same system of laws, *viz.* the laws of England. On sedition and leasing-making, as coupled and confounded, the doctrines he had lately heard were most extraordinary and alarming.—It had been maintained, that the charge might be laid generally, and the punishment be arbitrary; either fine, imprisonment, transportation, or to any extent short of death. After the arguments on a former occasion, it was sufficient for him to state, that this authority was said by those who asserted it, to be inherent in the Court. If so, the Court possessed a power no less formidable and inconsistent with liberty, than that possessed formerly by the Privy Council in Scotland, or the Star Chamber in England. It was a power defined by no law, governed by no precedent, but left to the temper, character, or caprice of those who exercised it. It was a very true, though common saying, "*Misera est illa servitus ubi jus vagum et incertum.*"

The other part related to leasing-making, as distinct from sedition. By all the inquiries he had made since the former discussion, he was more and more confirmed in the validity of the distinction he had then affirmed to exist between banishment and transportation. Every author who had given a definition of banishment, from Cicero down to Puffendorff, Grotius, and Vattel, defined it to be simple removal from the society to which a man formerly belonged, not transportation beyond seas, or to any particular spot. Those Gentlemen who maintained the contrary opinion, said, that the contemporaneous definition of the word, as it appeared in the Act of Parliament, was the definition to be preferred. He denied that there was any instance of transportation applied to leasing-making. The bankrupt act of 1696 gave jurisdiction, not to the Court of Justiciary, but to the Court of Session. The Act of 1703, respecting leasing-making, said the offence might be punished by fine, imprisonment, or banishment. The Act of 1696 said, fraudulent bankrupts might be subjected to any punishment short of death. The first instance of transportation under the Act of 1696, was in 1744, which could not be called a contemporaneous definition of the word Banishment in another Act; but was evidently the error of judges who had been used to confound transportation and banishment. In this they did not found their judgment on any Act of Parliament, but on a function of an unlimited and undefined nature, called their *nobile officium*; a function which the Court of Session sometimes assumed, but which was never supposed to belong to the Court of Justiciary. The next case relied upon as an exposition of the Act of 1703, was that of Mr. Bailey, tried before the Scots Privy Council in 1704. If the House would agree to the Committee, he would pledge himself to prove that no such case was to be found in the records of the Court of Justiciary. An investigation of the Scots criminal law had been going on for eighteen months previous to framing the late indictments; and yet, after so much research, this case had never been thought of, at least never produced till after the trials. How came it to be overlooked, but because it was held inapplicable? How came it to be brought forward, but because every sort of defence was felt to be necessary? Let Gentlemen mark the numerous and strong distinctions that separated this case from every other.

The first thing worthy of notice, which occurred in this case, was the list of the Privy Council (before whom the trial was held), upon which appeared the names of the Lord Advocate and the Duke of Queensberry. The first of these Gentle-

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men consequently acted the part of prosecutor and judge; and the other was the person against whom the offence was committed; there was no jury to decide on the facts. The offence which the libel charged was, that Bailey, the defendant, had accused a great officer of state (the Duke of Queensberry) with leasing-making, and having charged the Duke of Hamilton as being guilty of high treason; and concluded, that his guilt ought to incur the pains of law, *at least all the pains of the Act of 1703*. Of this offence he was found guilty *art and part*; and the determination of the Court was, that he should be punished severely, *at least* with the pains of law. Hence it was clear that the Privy Council did not think themselves restricted by the Act of 1703; and in fact their sentence did not commute banishment for transportation, but added other penalties not mentioned in that Act. Previous to his trial, he was not admitted to bail, though no pauper, but a gentleman of property and connexions, being of a respectable family of that country, who are now well known, and his brother was at that time a Colonel in the army. He was therefore very able to find bail, which shewed that they did not consider his offence as bailable. In their sentence they pronounced, "that the said David Bailey be infamous; that he be banished forth of Scotland for ever; that he be transported to the West Indies; and that previous to transportation he be set on the pillory." Thus they added infamy to the punishment, which they could not do by the Act: And the banishment to the West Indies, he contended, was only a mode of sending him from the country, and from which he might go to any other place without subjecting himself to further punishment: Indeed, it had been maintained, that he never was sent to the West Indies, but suffered to quit the country, and go where he pleased. From all these circumstances it was clear, the Privy Council did not act in strict conformity with the Act, but under some other authority with which they conceived themselves vested, and that this therefore could be no contemporaneous exposition of the Act. In every point of view, therefore, it would be absurd to rely on this as a case to expound the meaning of that Act. By former statutes it was made highly penal to bring a false charge against a member of the Scots Privy Council; and on these they probably acted in the case of Mr. Bailey. The crime of which Bailey had been guilty, was that of accusing a person high in office, which by the statute book appeared to have been considered a crime of considerable magnitude, as also the crime of perjury, or charging another with perjury; for which offences a particular statute was framed, which arose from what was called Gowrie's Conspiracy, set on foot by Lord Ochiltree to imprison James I. To say nothing of the nature of the Court

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of Privy Council, citing this case for the first time, ninety years after it occurred, was sufficient to shew that the criminal law of Scotland stands not on proper grounds.

Mr. Adam said, he was ashamed to have detained the House so long upon the subject, but he would draw as fast as possible to his conclusion. He alluded to the clause in the Act of Union, to enable the Parliament to dissolve the Privy Council of Scotland, and to have but one Privy Council in England. Why the Scots Privy Council was abolished soon after the Union, might be seen in Defoe's History of that event; an authority which, whatever might be the character of the man, was often relied upon. There it appeared that it was abolished, because it arrogated powers which no man who regarded liberty could endure; and from this Court, which was odious and detestable to the last hour of its existence, was a precedent to be taken and converted into law? It might be said, that if it was not of competent jurisdiction, Bailey might have refused to submit to it; but it must be remembered, that to decline the jurisdiction of that Court was made by statute high treason. The determination of that Court, upon this case, was the principal ground upon which the Gentlemen on the other side had maintained their opinion, and therefore he did not see how the Committee, with any sort of propriety, could be refused. If it were possible at once to substitute the criminal laws of England in the place of those of Scotland, it would be the best thing that could be done; but he was well aware of the difficulty, arising from prejudice and attachment. He wished to have what was valuable of the Scotch law, superadded to the advantages of the English. Sure he was that they might be assimilated as far as respected State crimes, without violating either the spirit or the letter of the Union, and without injury to the subject. The treason laws had been assimilated, and why not the rest? Immediately after the Union, the laws of treason were made the same in both countries, and might have been so made immediately upon the accession of James the First; but it at that time depended upon the legislature of Scotland. The principle upon which that assimilation was founded was clear and obvious; that people who owe the same allegiance would be bound by the same criminal laws to an observance thereof; the same political moral should exist in both countries, and the same principles of preventive law. To shew that what he proposed was clearly within the power of Parliament, it was only necessary to mention the 18th and 19th articles of the Union, and the abolition of the heritable jurisdictions. He contended, that, from the suppression of the heritable jurisdiction, an alteration in the criminal law was not quite novel; and that by the 29th

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clause of the Treaty of Union, the Legislature had an undoubted power to make such alterations as might seem necessary; and in fact, they had done so by introducing the same law with regard to high treason, and instituting the inquiry by a grand jury in that case. He said, he had lately been present at a trial where a man, convicted of a conspiracy, with intent to excite sedition, was sentenced to twelve months imprisonment. Nothing could be more absurd than that men, because they happened to live at one end of the island, should be punished with fourteen years transportation for offences which, if they had lived at the other, would have incurred only one year's imprisonment. He concluded with moving,

"That a Select Committee be appointed to consider of the criminal law of Scotland; with respect to the crime of Leasing-making; the crime of Sedition; the right of appeal from the supreme court of criminal judicature; the power of arresting judgment; and the right to a new trial; the law respecting the competency and credibility of witnesses; the law respecting the admissibility of evidence under the charge of art and part; the mode of returning the common jury, and of chusing from the 45, when returned, those who are to serve, and the legal objections to jurymen; the propriety of introducing a grand jury to find bills of indictment; the power of sheriffs, and other magistrates, in taking precognitions, (*i. e.* information for trial and commitment;) the power of the criminal courts in punishing contempts; the necessity of a jury in all cases; corporal punishments in courts of inferior jurisdiction; and to report respecting the same, with their opinion thereupon, to the House."

Mr. Secretary Dundas said, he did not chuse to sit silent for a moment under a discussion of the question before the House. Being a native of that part of the United Kingdom whose criminal jurisprudence was at present the object of discussion, and the representative of one of her principal cities in Parliament, he did not conceive it to be consistent with his duty to remain a passive auditor, after what had fallen from the Hon. Gentleman. He begged leave therefore to enter his protest against the whole of the Learned Gentleman's reasoning on this occasion. The House would recollect that the southern and northern parts of the kingdom were connected by a Treaty of Union solemnly considered; attended with many difficulties in the discussion of it; violently opposed; but at last, after full and impartial consideration, it had been thought proper to conclude it. One of the most important regulations of that treaty was, that which provided for the administration of justice according to the then existing laws, and for the protection of the country from the introduction of the English municipal

municipal law within its territory. But, in defiance of those provisions, the House (which by the Act of Union alone had a right to legislate upon the subject) was called upon to trample these stipulations under foot, and to determine upon theoretical opinions in direct opposition to them.

The question therefore was, whether the House would, at one stroke, or blow, overturn the whole of that Treaty of Union? for that was the tenor of the motion before them: Or whether the House would insist on extending the advantages of the criminal law of England to the other side of the Tweed, merely out of compliment to the whim of an individual, without those advantages having been asked for on the part of Scotland, and where they would not be thankfully received? It might be the opinion of the Learned Gentleman (it was perfectly natural it should) that the law of England was preferable to the law of Scotland, and that the law of both should be the same; but that was contrary to the feelings of the people of the country from whence he came, and directly against the Articles of Union. The Learned Gentleman had produced ten or a dozen articles under different heads of his motion; and, as far as he had been able to attend to them, they really appeared to him to be a complete alteration of the law of Scotland; as well the mode of accusation for crimes, trials, and convictions, as the manner of inflicting punishment. There was no part of the law which the Learned Gentleman did not propose to alter. Upon this ground he must oppose the whole of the motion. What was the situation in which it was proposed by the motion to place the people of Scotland? completely to change their condition with respect to the criminal law; this would be cruel to them. He wished the House to remember, that it was no part of his intention to throw the smallest stigma upon the criminal law of England. Her subjects were happy and contented under it; and the conceptions they entertained of its excellence, it was no part of his intention to impair; but, on the contrary, he only designed to remark, that if the people of Scotland were equally well pleased with their present circumstances, there was no occasion to make any alteration in their condition, for the mere purpose of assimilating it to that of the natives of the southern parts of the kingdom; and yet the House was called upon by the motion now before them to presume, that the whole mass of the people of Scotland were perfectly ready to alter the whole of their criminal law. They were to have a grand jury; because there was a grand jury in criminal cases in the law of England.

He admitted there were many material variations and differences between the English and the Scots criminal laws, some of which he might think, in common with the Learned Gentle-

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Gentleman, were preferable in the former than the latter country; such, for instance, that positive punishments were in general affixed to positive crimes with us, while among the Scots a greater latitude and discretion, under the name of arbitrary punishments, were indulged their judges; but he affirmed that this very circumstance it was that attached that people to their laws; and he was bold to say, that there would be found fewer crimes to exist among them than any other country in Europe, and that justice was administered in Scotland with a degree of lenity and moderation, owing to this very discretionary power, not to be paralleled; it would therefore neither be wise nor prudent to alarm them with the apprehension of change, which the adoption of the proposed Committee would inevitably do. If ever there existed in civilized society a people who were perfectly happy, peaceable, and quiet, under the laws that governed them, that people were to be found in Scotland. He stated the firm conviction of his mind, and he begged to be contradicted in that particular if he was wrong. From the time of the Revolution downwards, there had not existed a doubt but that the law of Scotland was agreeable to the people; and the administration of it was lenient to a degree of admiration. He therefore trusted that the House would be cautious how they indulged the vague theories of any individual, to disturb the happiness of a people, which would be the case if the present motion was carried. He would say again, that the people of Scotland were contented with their laws, and happy under them; this was manifest from the few crimes that were to be found among them; he would further add, that when any convictions took place among them, the punishment was not more severe than the crimes deserved. There were more criminals in this country far than in Scotland, taking the proportion of the population, and more still on capital offences. Looking at the proposed transfer of the criminal code of this country into Scotland, he would ask, What would be the natural consequence? The addition of the long train of capital punishments with which our criminal law is reproached, and for which he conceived the Scots would be very little obliged to us.

From the situation of Lord Advocate, which he had held in Scotland in the earliest and best part of his life, and from the office of Secretary of State, which he filled at present, he had been enabled to form a pretty correct estimate of the comparative state of the criminal law of both; and the preponderance of his opinion was certainly in favour of the lenity of that of Scotland. At the end of the very last Session at the Old Bailey, the Recorder had made a report of no less than
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thirteen capital convicts, all whose punishments, except that of one man, had been transmuted into transportation by the executive Government; and from this circumstance it would appear, that the so much boasted lenity of the English law did not so much arise from its positive enactments, as from the mildness of the manner in which its sentences were carried into effect. In one particular instance, which he begged leave to state to the House, he could not well conceive what the astonishment of the people of Scotland would be, if such a law were introduced among them. By the law of England, a man who broke through a shutter, and stole goods from a house in the night-time, was guilty of a capital offence, burglary; though, if he had stolen goods from the house, the window being open, and he entering by it, no such consequence would have ensued. Suppose they were to substitute the law of England for the law of Scotland, and tell a Scotchman he must suffer death if he steals a piece of cheese; he would stare with wonder and say, "A piece of cheese?"—"Yes—because the window, out of which you stole it, was shut."—This he believed would astonish a Scotchman, and he would not thank the Gentleman who gave him such a law. This distinction, however by practice the people of England were familiarized to it, could not be easily understood, or acted upon, by the Scots, as it had no foundation in nature, and depended upon refined, and perhaps unaccountable, subtleties. Notwithstanding this, and many similar instances of apparent absurdity or cruelty in the law of England, the people were happy under it: The mercy of the Crown was regarded as a part of the administration of justice, and its theoretical cruelty was forgotten, as its practical lenity was daily exhibited.

The Learned Gentleman who made the motion complained of the law of Scotland, on account of there being too much discretion left to the judges, by way of punishment after conviction. In capital crimes in the law of England, the discretion of the judges was very great. On the circuit, for instance, the cases of many convicts were not determined immediately by the law of the land, but rested altogether on the lenity of the administration of that law.

He begged again to be understood as not setting up the smallest complaint against the law of England; he only brought forward these observations to shew how much discretion was given to the judges, who, in many cases, after pronouncing sentence of death on any person, might respite and stay the execution of the sentence. How stood the matter with respect to the mercy of the Crown? either by petition put into the King's own hand, which might possibly happen, or more
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law should have been so allowed; but that was different indeed from the general *Sweeping Committee* proposed by the present motion.

With regard to the grand jury, of which the Learned Gentleman had spoken, such an institution certainly did not exist in the law of Scotland; but he did not think the Scotch had any reason to complain of the deficiency of their law on that account, for the manner of carrying on a prosecution was different in Scotland from England. When any man was accused of a crime, a magistrate of respectability and character attended to take all the circumstances down; he was unconnected with any party, and had no view but the due execution of his duty; the whole of the matter thus taken was transmitted to the Lord Advocate, who followed also the duty of his office in the same disinterested manner. He was perfectly sure that no person ever heard of such a magistrate having made any thing but a faithful report of such case, or of any advocate having followed any thing but the strict line of his duty in the subsequent proceedings of any prosecution. Some Gentlemen might talk of the late trials for sedition in Scotland; he laid them entirely out of the question; and let Gentlemen who found fault with these trials not build the whole of their complaints against the law of Scotland on them, but let them also advert to the other proceedings of the courts of the law of Scotland, and draw their arguments fairly from the whole, and not from a part partially selected for their own purpose. He observed that Gentlemen had been extremely eager to manifest their humanity upon the cases of some persons lately convicted; he thought their patriotism a little partial; for had they been actuated by motives of pure real humanity, they might have found many cases of miserable objects sentenced for transportation nearer home; all at once however they were awakened by the case of men, who had thought fit to pass the frontiers of their own countries to brave and violate the laws of another.

As to the observations of the Learned Gentleman upon the political morality of the two countries, and of the absurdity of making distinctions in that respect, he must say, that this did not appear to him to be extraordinary, for different people, from different habits and different prejudices, might require different regulations for their morals. Indeed, he did not know to what length the Learned Gentleman intended to proceed upon this project of reform—Was he to alter the religion of the people of Scotland? Did he even wish to take away from them their presbytery? They were perfectly happy as they were, and should not on any vain theory be called upon or induced to change

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change their thoughts on morality or on religion; nor on any part of their system of jurisprudence, unless it was a point of grievance severely felt and generally complained of. As to the case of one year's imprisonment in England, mentioned by the Learned and Hon. Gentleman, as a punishment in England for a libel on the Government, he did not know the case he alluded to; but he must say, that when he looked around him, and saw the attacks that were daily made on the very vitals of the constitution; when he saw this systematically done; when he found that works in their nature hostile to the government of the country, addressed to the lower orders of society, for the purpose of creating discontent among them, were left in cellars and on stairs, dropt in streets, and scattered about on highways and on commons (nay, he found one of them himself on Wimbledon Common the other day); he thought it his duty to say that something must be done to check those practices. These things were carried on, and these sentiments were spread with great assiduity by persons denominating themselves Corresponding Societies, and other names by which Gentlemen chuse to adorn their meetings; and under all these circumstances, he was ready to say that he was clearly convinced that the punishment hitherto inflicted by the law of England was not sufficiently severe to deter persons from this practice [a cry of *hear! hear!*] Mr. Dundas said, he would again repeat it, in order to be well understood—"He was clearly convinced that, on proper inquiry into this subject, it would be found that the law of this country was insufficient in this respect, and that the Legislature must proceed in some measure or other different from what the law was at present in that particular." He said this the more readily, because on a former day he had heard it asserted, that no man dared to say the law of England ought to be altered in this respect. He dared to say it, because he dared to think it. Mr. Secretary Dundas concluded by giving his decided negative to the motion.

Mr. Serjeant Adair observed, that the Right Hon. Gentleman had resisted the motion of his Hon. Friend upon two grounds: First, because, in its principle, it was contrary to the Articles of the Union, and to those forms, and that system of law, to which the people of Scotland were peculiarly attached; and, secondly, because it proceeded upon the personal opinion of his Hon. Friend, unsupported by any application from the country most materially interested in the present discussion. The House, however, would do well to recollect, that it was no part of the proposition of his Hon. and Learned Friend to assimilate the law of Scotland to that of England in the first instance; on the contrary, he had not pointed out any specific remedy what-

ever for the grievances complained of, but had simply confined himself to a motion for the appointment of a Committee to inquire into the existence of those grievances, and to devise the proper remedy for them, if they should be found to exist. Viewing the question in this way, he could not widely differ from his Hon. Friend; and upon comparing his statement with the motion with which he had concluded, he thought it would not be a difficult matter to prove the propriety of his coincidence with him.

The system of criminal law in England, in most respects, the Serjeant said, he must contend to be worthy of being both admired and imitated: The authority of our courts was justly balanced, the rules of evidence were exactly ascertained, and the modes of proceeding adapted to the purposes of substantial justice. But while he thus expressed his warm approbation of our criminal laws in general, he was perfectly disposed to admit with the Right Hon. Secretary of State, that in some few points and particulars those laws were defective: But was it not possible to adopt the unexceptionable part of our criminal code in Scotland, without at the same time introducing those parts of our penal statutes to which any reasonable objection could be made? He was likewise disposed to concur with the Right Hon. Gentleman, that the lenity of our municipal law arose in a great measure from the conduct pursued by Government in carrying its sentences into effect, and that by means of that mildness and lenity the people of this country were happy, safe, and easy, under its decisions. But did it not follow, as a necessary corollary from these concessions, that a similar mode of proceeding with that adopted in England might likewise be pleasing and satisfactory to the inhabitants of Scotland? His opinion, however, he was free to allow, might be the result of professional prejudice; and therefore he did not wish to trust implicitly to the first impression which the subject made upon his mind. On the contrary, it was his wish that the business should be investigated step by step; that a cool and dispassionate inquiry might be instituted; that if no weighty objections were made to the existing criminal laws of Scotland, they might still continue in force; but that if grievances were found to exist, a remedy should be applied to them, consistent with the circumstances of the country, the inclinations of the people, and the general state of society in that part of the kingdom.

The last observation which fell from the Right Hon. Secretary he could not pass over in silence. He agreed entirely with him in reprobating the licentiousness of certain publications, and in the necessity of repressing them; but he could
not

not on that account admit the necessity of increasing the severity of the penal law, already, according to the Right Hon. Secretary's own statement, teeming with sanguinary severity. From what appeared from the late discussions upon the subject, the crimes of sedition and leasing-making, it was pretty evident, were similar to what we called libels against the state. Before those debates had taken place, he had not entirely made up his mind upon the propriety of certain punishments recently inflicted for those crimes. Perhaps, in the strict letter of law, they were to be justified; but if they were, that was the strongest reason for the vote he should give that night in favour of the present motion, because they proved the necessity of inquiry into laws which authorised such punishments being applied to such offences. How then could he concur in adopting increased severity in our English law, proposed by the Right Hon. Secretary, when he condemned the existence of criminal laws in Scotland, that in their operation and effect were too severe? He had already stated, that the Judges here were armed with the discretionary power of inflicting the various punishments of fine, pillory, and imprisonment: Was not this enough to satisfy the most vindictive spirit? Or could we agree to a further extension of punishments with any attention to that principle which pervades even our penal statutes, that we should avoid extreme punishments, and never apply them but on criminals convicted of flagrant and enormous offences?

By our law, as it now stands, there existed no discretionary power to inflict transportation for misdemeanour; and it would be well worth while to recollect, that while libel was certainly a crime, the punishment of it was as certainly capable of abuse. In England, in the cases of libel, the Court, after conviction, had the power of inflicting arbitrary punishments, to the extent of fine, pillory, or imprisonment; the latter of which, under certain circumstances, might be deemed as severe as transportation; but there were so many checks upon this discretionary power in England, that it could be rarely abused; and, perhaps, very few instances of its having been so abused could be shewn, except in times universally reprobated as arbitrary and disgraceful to the English history; whereas the law of Scotland tended to introduce a discretionary power of banishment, which confounded every idea of distinguishing between one offence and another, and tended to involve every unfortunate delinquent in the same merciless condemnation. The law of England, as it originally stood, he contended, gave no power of banishing for any misdemeanour; for the authority to banish, in particular cases of perjury, was conferred

conferred by a particular statute, in derogation of the common law. He should lament extremely to see such a power extended to cases of sedition in this country, because those were cases, of all others, the most liable to abuse; and wherein, of all others, the passions and prejudices of mankind were most likely to be involved and enflamed. In his opinion it would be improper to give the criminal courts the power of adjudging banishment on conviction of any crime against the state which amounted to less than high treason. It ought likewise to be considered, that as long imprisonment was the punishment, the victim was, as it were, before our eyes: He was in a situation to excite the pity, and to receive the extension, of the royal mercy. But if Administration could send away all who were obnoxious to them, the object was removed almost beyond the possibility of redress, and the door of mercy was completely barred against him.

Another argument against the principle proposed by the Right Hon. Secretary was, by the law of libel, as it now stands in this country, juries are constituted judges of the whole case as it comes before them; and it was well known how unwilling they were to convict since the law of libels passed; it was therefore worth while to consider, whether that disinclination to expose men to the severities of the law, where the punishment was discretionary with the Court, or, in the Scotch phrase, "arbitrary," might not be rendered still stronger, if those severities were to be so unnecessarily extended beyond the bounds either of humanity or of prudence. In addition to the arguments adduced by his Learned Friend, in support of the proposition for going into a Committee, there were one or two which had suggested themselves to his mind, and which had great weight with him. Upon the fact of the existence of a power to try for what were termed lesser offences, without jury, and where the punishments were very severe, it happened that he had found a case which put the fact out of all doubt, as being of a later date than that already referred to. It was a case that occurred and was determined so lately as on the 19th of March 1783: The Procurator Fiscal against Young and Wemyss. It was an appeal from the Sheriff's Court to the Court of Justiciary, against a conviction, upon the ground of excessive punishment. Upon this occasion, the Judges of the superior Court, although upon some other grounds, they thought fit to reverse the judgment, yet were unanimous in declaring, that it was competent to try for lesser offences without a jury, and to inflict arbitrary punishment upon conviction. If then this were the law of the country, would any Gentleman present say, that an inquiry ought

ought not to take place? Or were Members of Parliament so totally indifferent to a matter so important to the liberty and dearest interests of the subject, as to look, and with perfect calmness and apathy, and see one-third of the kingdom deprived most unnecessarily of that inestimable blessing, the trial by jury? So little did he imagine it possible that there did not exist something at least like a grand jury in Scotland, that until he heard it that night, he could not have believed that such power could have been lodged in the hands of the Lord Advocate, a power which ought not to be lodged in any individual, however respectable; although he did not doubt but that it was very conscientiously exercised by the present possessor. A Lord Advocate, being an officer of the Crown, was, abstracted from all personal considerations, the most improper individual of all others for such a power to be lodged in his hands.

It was true, that something like it was known in this country, when his Majesty's Attorney General could, *virtute officii*, put a man on his trial by filing an information. This was a power which ought to be, as, in fact, it was, very sparingly exercised; but in the person of the Lord Advocate there was not only this power of prosecuting, but the still more dangerous one of stopping any prosecution from his own mere *will*. He conceived he had but barely to state this to an English ear to excite their condemnation of such powers.

Another consideration which weighed strongly with him was, the construction of petty juries in Scotland. He understood that out of 45 returned in the first instance, 15 were chosen to try the cause; not taken as we do, in regular order, but picked and chosen, as the prosecutors thought proper to select, and who were to try the cause, unless challenged, upon sufficient cause shewn against them. The Serjeant said, he would venture to affirm, that a jury so chosen in this country, would be considered neither more nor less than a packed jury. So sensible were Englishmen of the difficulty of being able to shew just cause of objection, though such might exist in great validity, and yet so conscious were we that a jury should be uninfluenced, that with us the liberty of challenging a certain number, according to the crime imputed, peremptorily, and without being obliged to assign any reason whatever, was allowed. If, then, no other ground could be stated why the House ought to go into the inquiry proposed, he should conceive that this one fact would sufficiently demonstrate the necessity of it.

The last ground upon which the Serjeant defended the motion, was the necessity that existed of allowing writs of error in criminal

criminal cases from the courts of Scotland, as well as the courts in this country, in order that their proceedings might be capable of being reviewed, and any errors they might chance to fall into, be corrected. One thing he thought his Learned Friend was wrong in, which was, his not having relied more strongly on the articles of the Union, as completely proving, both in letter and spirit, the propriety of assimilating, as far as possible, the laws of the two countries. By the eighteenth article of the Union it was stipulated, "That from the time of the Union, the laws of trade, custom, &c. should be the same in both countries." Thus demonstrating how eager they were to assimilate as quickly as possible, it proceeded to state, "That all other laws should remain the same as heretofore, but *alterable* by the Parliament of Great Britain." By this they evidently excited inquiry into their system, and the adoption of that gradual assimilation which circumstances would admit. Upon all these grounds taken together, it was, Mr. Serjeant Adair said, that he was induced to give his hearty support to the motion of his Learned Friend.

The Master of the Rolls said, he had listened with great attention, and much pleasure, to the Learned Serjeant who spoke last, whose speeches were always replete with argument and information; but, upon the present occasion, he was sorry to say, that he could not agree with him. The eulogium which the Learned Serjeant had passed upon the law of England, came with peculiar propriety from a professional man, who had for so long a period administered it with so much honour to himself, and with such advantage to the country. He admired the English system of law as much as any man, and should be as sorry as any man to see the people of this country deprived of it; but at the same time he could not feel himself justified in imposing that law upon another country, without any application from the inhabitants of that country for a change in their system, or without any complaint of a grievance which they wished to have remedied. He conceived that the Articles of Union between the two countries were sufficiently explicit upon this point. It appeared to him that it had been with obvious anxiety provided, that the law of Scotland should not be changed, unless for the peculiar benefit and advantage of Scotland. In making this agreement, the Scots must have relied upon the honour of Parliament for a due observance of it, because, from the number of members which represent the northern part of the kingdom, they could not prevent an infraction of it. Feeling thus, and these being his real sentiments, however strong his predilection, as an English lawyer, might be for the juridical system of his own country,

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country, he would not consent to compel the inhabitants of another country to adopt that system, who, for all he could learn, neither solicited nor wished for the change.

Mr. Serjeant Adair shortly explained.

The Master of the Rolls also said a few words in explanation.

The Lord Advocate said, he came into the House with a determination not to discuss the present motion; he had resolved to leave it to the superior judgment of his Learned Friends around him; but really some assertions had been made, some interpretations had been put on the law of that country to which he belonged, that made it absolutely necessary for him to intrude a few moments on the patience of the House. He felt how improper it would be for him to suffer the House to divide on the present motion, without removing the impression endeavoured to be made by the Learned Serjeant, who, without having been bred in the jurisprudence of that country, without having paid any accurate attention to its code of laws, did not hesitate to load them with odium, and condemn them as unfit to be continued. He must, however, tell the Learned Serjeant, that he ought not to think of reproaching a system of jurisprudence, till at least he had made perfect inquiry what that system was. Indeed, from what had fallen in the course of debate, the Learned Serjeant had shewed himself very little adequate to decide on their merits, and totally ignorant of the manner in which the Court of Justiciary proceeded. The people of Scotland must, he said, justly be incensed, when they hear of the British Parliament debating on the policy of changing those laws under which they had so long and so happily lived.

When, upon a former occasion, an Hon. Gentleman, whom he could scarcely call his countryman (*Mr. Adam*), had attacked the law of Scotland, and represented it as a law of oppression and of cruelty, he had felt himself bound not to suffer any English Member of Parliament to leave the House with an impression that those assertions were founded in fact: He had, therefore, taken the liberty of submitting some arguments upon the subject to the House, which would render it unnecessary for him to trouble the House so much in detail upon the present question as he otherwise should have felt himself bound to do. He should, however, beg leave to make a few observations upon some of the arguments which had fallen from the Hon. Mover of the question. He denied that the Lord Advocate of Scotland had any such powers as the Learned Gentleman had stated; if he really possessed such powers, and they had been so conducted in their exercise as to be productive of such dangerous consequences, he begged to know,

whether any Gentleman imagined those powers would have been left unnoticed and unquestioned from the time of the Union down to the present year?

The question, as far as it had been argued, went on two points only, to which he would, as much as possible, confine himself: First, the formation of juries; and then, the power of the Lord Advocate. With respect to the formation of juries, he would state to the House, in a few words, how that fact was, and then they would be able to judge whether there was any foundation for the charge which had been made. The mode of proceeding, he said, was this: The constables, and other inferior officers, made a return annually to the principal Magistrate at Edinburgh, of such persons as were to serve as jurymen, which amounted to the number of several hundreds; then the clerk of the court struck from among those forty-five, who were to be on the assize for the trial: This was done without any communication between the clerk and the Court of Justiciary, and without any communication with the Lord Advocate, who was the prosecutor; it was, therefore, nothing more than the mere exercise of official duty on the part of the clerk, as a matter of course. This list of the forty-five was brought to the Lord Advocate, and, with a list of the witnesses to be brought forward on the trial, was added to the libel (*i. e.* indictment), and given to the person to be tried fifteen days before his trial came on; which, considering the forty-five to consist of persons living and known in the neighbourhood, was sufficient time for the pannel to make every objection that might appear to him to be necessary. When this list came into the court, the Lord Advocate had nothing more to do with it: The judge then interfered by a very proper discretionary power that he possessed, and named the jury that were to try the cause. After naming the first five, the pannel was asked if he had any objections, and if he answered in the negative, the fifteen were made out in the same manner: If any objections were stated, the court judged upon the validity of them *instantly*; but there was no practice in that court that gave the pannel a right to make frivolous objections, or to challenge the jury or witnesses without assigning cause. Upon the circuit, the mode was in some degree different. The Sheriffs of the counties composing each circuit (in general three counties) returned forty-five persons for each county; but as it would be extremely inconvenient to bring such a number of persons from their homes and avocations to the circuit town, the proper officer belonging to the Court of Justiciary upon each circuit struck off so many names until the number of the whole was reduced to forty-five;

five; and as it was almost impossible for this officer to have any interest in the case, there was no foundation for the insinuation, that packed juries were obtained; still less was that observation founded, with respect to the manner of choosing juries in Edinburgh, by the Judges calling out the names from the list. He had never met with any single case in which a complaint had been made by the defendant of an improper jury having been chosen.

With respect to himself, he declared solemnly that he never knew the names of the jury till he came into court. It was true, as he had already admitted, that the law of Scotland did not allow the prisoner to object to the jury, without stating the cause of his challenge, as was allowed in many cases in England; but then a defendant in Scotland had an advantage over a person in a similar situation in England, because he not only had a list of the forty-five persons out of whom his jury were to be chosen, but he also had a list of the witnesses who were to be produced against him: These lists were delivered to him fifteen days at least previous to his trial; so that he had an opportunity, during that interval, to inquire into the character and situation, not only of those who were to be adduced as witnesses against him, but also of those who were to sit as his jury.

The point which had been much relied upon by the Hon. Gentleman, was the power vested in his Majesty's Lord Advocate, of instituting or of preventing what prosecutions he thought proper. If what had been stated upon this subject by that Gentleman, and by the Learned Serjeant who followed him, had been a true representation of the law of Scotland, most undoubtedly it ought to be considered as one of the most oppressive systems of law that ever existed; but when he satisfied the House what the law really was upon that point, he was sure the House would be of a very different opinion. The power vested in the Lord Advocate was simply that of determining what prosecutions were fit to be carried on at the public expence, and in such a case, as he thought fit for proceeding, to act as public prosecutor. He had no such power as that mentioned by the Learned Serjeant, of preventing any prosecution which he pleased, a power which would be incompatible with the liberty of the people; because, if he thought any particular case not fit to be prosecuted at the public expence, it was still in the power of individuals, under certain circumstances, to carry on the prosecution even in spite of the Lord Advocate, who was in certain cases bound to give his concurrence. For instance, if a man was murdered, his brother or near relation might institute a prosecution; or,

in other cases, any person who could make out a sufficient degree of interest, was entitled to carry on the prosecution in his name, as the law officer of the Crown. It was true, the law of Scotland did not go the length allowed in some countries; happily it did not allow of popular accusations, because it was not proper, that, at the malice or the whim of any individual, a citizen should undergo the ignominy of a public trial, even though, upon that trial, his innocence should be ascertained. Having stated these facts, he would leave it to the candour of Gentlemen to determine, whether the aspersions thrown upon the law of his country were founded in this particular or not. This he would venture to say, that, at least, until the office of Lord Advocate fell into his hands, he had never heard the slightest complaint thrown out against the exercise of this power in that office.

The Lord Advocate adverted to the articles of Union entered into between England and Scotland, by which he contended, that it was clearly laid down, that the laws of Scotland could not be altered, unless upon some particular point, in which the interests of Scotland clearly called upon Parliament for such an alteration; but it strongly guarded against an alteration founded upon theoretical and speculative principles, such as the present most undoubtedly were. It was obvious that it could never have been in the contemplation of the Scots Commissioners negotiating the Union, that the law of Scotland was to be partially altered, or wholly changed, according to the speculations or predilections of English Members of Parliament, who could not be acquainted with the general feelings of the people of Scotland, or versed in the laws by which it is governed. The Hon. Gentleman, who was himself a Scotchman, he did not think was entitled to bring forward such a motion in such a manner; nor could he imagine that the Hon. Gentleman felt much real satisfaction, from the consciousness of having done what certainly was not wished for or desired by his own countrymen. With regard to the Learned Serjeant, though he had not the honour of knowing him, he was informed that his character stood very high as an able administrator of the criminal law of England: As such, he must naturally feel himself strongly attached to those laws; but at the same time it could not be supposed he was sufficiently skilled in the law of Scotland to be justified in supporting a proposition for so important a change in it.

On the point of altering the Scotch law, in criminal cases, at the Union, there was scarcely a struggle; the English Members, though so much greater in point of number, were so satisfied of the justice of that article in the treaty, that they acquiesced

quiesced in it; and this he considered to be the first attempt, that had been made since that time, to set aside the criminal law of Scotland altogether, and to assimilate the laws of a country, as independent as Englishmen felt themselves to be, to the law of England.

Since the Union, only two alterations had been made in the law of Scotland by the Parliament of Great Britain. The one was with respect to the law of high treason, and the other was the abolition of heritable jurisdictions. The introduction of the English law of high treason into Scotland was immediately after the Union, and seemed to have been, from the history of those times, foreseen and intended by the Scots Commissioners. The Act of 1708 came recommended by a speech from the Throne, and met with the approbation of both countries. With respect to the abolishing the heritable jurisdictions, that step was not taken, like the present, without any communication with persons in that country: On the contrary, a very long and minute inquiry was entered into relative to those jurisdictions, and it was not till after full information had been obtained, that a Bill was brought into the House of Lords to abolish them; but as compensations were to be made to the persons who possessed those jurisdictions, it was found that it was a Money Bill, and therefore ought to originate in the Commons. A new Bill was therefore brought into the House of Commons for that purpose: It was moved and seconded by the Attorney and Solicitor General, and supported by the Lord Advocate of Scotland. Under these circumstances, he thought the two alterations he had mentioned not very likely to be brought forward as precedents for the present plan.

When his Right Hon. Friend (Mr. Dundas) was speaking of the late decided cases in Scotland, some Gentlemen had exercised a privilege which he supposed belonged to Members of that House, *viz.* of crying out *Hear! hear!* meaning, as he thought, to mark their disapprobation of the judgments then alluded to. After what he had said upon a former occasion respecting those cases, he would not trouble the House with repeating his observations again: He would only say, that, for the last eighteen months, many prosecutions had been commenced upon similar grounds to those; and in every one instance, though, by the law of Scotland, a majority of the jury were sufficient to decide, yet the defendants had been found guilty unanimously by juries chosen from landholders, shopkeepers, and from almost all descriptions of men; which he conceived to be a tolerable proof that the prosecutions had not been commenced upon slight or trivial grounds.

Before

Before he sat down, he begged leave to advert to the case mentioned by the Learned Serjeant, of Young and Wemyss. He did not immediately recollect the case, but he would take upon himself to say that it was not law; and if that Gentleman, and the Hon. Gentleman who brought forward the motion, had done him the honour to consult him, he should have been happy to have given them every possible information upon the subject. His Lordship concluded with giving his hearty negative to the motion.

Mr. Fox rose, and in substance and effect thus addressed the Speaker: "Sir, I have often been surprised at the doctrines advanced in this House: I have often prepared myself not to be astonished at any desertion which might be made: I have often had my understanding perplexed and confused: I never found myself so much at a loss: So much amazed am I, that I should be inclined to think that I had either mistaken what had fallen from the Lord Advocate, or that I was lost in incredible stupidity. That Noble Lord commenced, and concluded, with reproaching my Learned Friend who sits near me (*Serjeant Adair*), with misquoting and mistaking the law of Scotland; but after preparing to expose his ignorance, after increasing our anxiety, he did nothing more than repeat, but in louder tone, what had fallen from, and what had been asserted by both the Gentlemen who spoke so ably in support of this motion. I really, Sir, supposed that I did not hear the Lord Advocate, or that I misunderstood him. My Learned Friend said, that from the forty-five which were chosen for the jury, fifteen were struck by the Court. What statement can be more alarming to justice, what can be more dangerous to the liberty of the prisoner? But when the Lord Advocate comes to speak on the same subject, notwithstanding his surprise at the ignorance of my Learned Friend, he uses the very same words, and says, that after the forty-five were given in to the Court, the judges selected fifteen; not as in England, by taking the first twelve that came, or on special juries, by ballot, but by selecting number one, two, or any other numbers as best suited his purpose; and the manner in which the first list was made out by an inferior officer of the Court, only served as another additional impropriety and cause for alarm, because it rendered packed juries more easily obtained; for certainly the power of the judge to select such as he pleased from the number, was tantamount to a packed jury. If the Learned Lord intended we should believe my friend had mistated the matter, he should have formed some argument, either to shew the jury was not packed, or that there was no danger of such an event coming to pass.

“ With respect to the power of the Lord Advocate, he can create prosecutions. I collect from the Learned Lord, that if the guilt of any person is made out, the Court will order the prosecution to be commenced; but this is with respect to public crimes, in which the Lord Advocate may commence or discontinue any prosecution: But he has treated the argument of the able Mover with great unfairness; he has said, that my Learned Friend wishes to introduce the whole of the criminal law of England into his country, and on the impropriety of this measure he has dwelt for a considerable time: He should recollect, that my Hon. Friend (Mr. Adam) was not speaking of treason, of felony, of larceny, but of public crimes against the State: And it was only the criminal law which related to those he intended to introduce; in that sense I am certain the House understood him. Did he mean any thing else, much as I admire his talents, and respect his intention, I certainly could not coincide. In many respects I revere the criminal law of England; but it would be after serious reflection, and unprejudiced consideration, that I would consent to extend it, with all its penal statutes, to any country; because there are several of those statutes, that contain provisions, of which I can by no means approve. My Learned Friend meant only to introduce the criminal law which relates to sedition; and in his examination into the law of Scotland, viewing it with respect to its alteration, he does not assert that he would change it generally, but particularly, and that only as far as relates to grand juries, leasing-making, and other things enumerated in the question. It is true there are more points than one which he wishes to alter; but they are all individual points; he consequently cannot have in view the introduction of all the criminal law of England.

“ The Lord Advocate has spoken of the Act of Union; and he says, by this Act we are prevented from making any change in Scottish jurisprudence; but he ought to have recollected, that the emphatic words of that Act not only declare what the law is, but that the criminal law of Scotland may be altered by the Parliament of Great Britain, when to its wisdom it should be deemed expedient and requisite for the public good. He has mentioned the different laws which support his assertion; the Learned Lord, however, says, that we should not proceed to make any alteration, till it came recommended from the Throne, as had been the case in respect to the law of treason. Indeed, Sir, we have heard such strange things lately advanced of our constitution, we have seen it receive so many wounds, that we are not to be astonished at this suggestion. Does he mean that we are to wait till ministers come to complain

plain that the prerogative of the Crown was exerted too strenuously against the privileges of the people, and that they who opposed their measures were punished too severely, and the law ought to be made more lenient? I cannot understand what the Learned Lord intends by this idle assertion, which means nothing; and that it does mean nothing, is the best construction which can be put on it. The next case the Learned Lord said, had proceeded after a previous inquiry between the House of Lords and the Court of Justiciary. I have as high an esteem for the House of Lords, in their judicial capacity, as any body; but I cannot allow them any exclusive right to legislate, nor that any such alteration of the law ought to originate with them, for in their legislative capacity *pro tanto* the House of Commons is in every degree equal. Indeed the Learned Lord saw the folly of that argument, for he was obliged to own that the Bill was rejected first, and came from the Commons at last: But then he said it was carried through by the Attorney and Solicitor General; this might appear to the Learned Lord very proper, but I trust we have not yet forgotten all sorts of equality so much as to sanction a measure because it comes from this or that Lord in one House, or from the Attorney and Solicitor General, or any Member in the other. We all have the same trust reposed in us by our constituents, and our duty being the same, so is the degree of respect to be paid to us. This question, I contend, should be treated as a practical one. But, Sir, there may be some Members in this House, and I have reason to think there are, who have not been present during the late discussions; there may be some, who, attending cursorily, and who hearing the debate on Muir and Palmer, and on this night, may conclude these proceedings were legal; but I shall persist in contending that it was no such thing. These are the first punishments inflicted on such crimes. It is true, they argue on the other side, that they are legal. They argue from analogy; they admit (for obliged they are to do so), that in the 16th century no such punishments were inflicted on conviction of such offences; they can consequently find no precedents to bear them out on this occasion; in point of history, no such punishment is awarded. In vain they searched; no industry, no trouble was spared. Certainly the Lord Advocate would be happy to avail himself of it, could any precedent be found; but, Sir, a Right Hon. Gentleman (Mr. Dundas) asserts, that they enjoy practical happiness in Scotland. When did they? Let him define the date, and name the period. Was it under the reign of Mary, or the two first Stuarts? Was it at the Union of the two Crowns, in the reign of Charles the Second, or his brother James?

James? If any there has been, it must be since the Union or Revolution: But these crimes were never punished with such dreadful severity till within these eighteen months; and no precedent can warrant that severity, except the infamous and abominable precedent of 1704. He says he likes the criminal law of England, but that of Scotland better; he will not therefore consent to alter it: And he doubts whether it can be altered. Was it not altered by Parliament since the Union? Did we not change it with respect to treason in 1708? Yet in the reign of Anne, when we did change it, we were not considered guilty of a breach of faith.

"But does not every circumstance of the late proceedings dictate the propriety, nay more, the necessity, of going into an inquiry? What was advanced by one of the Judges of the Court of Justiciary on a late occasion? "New crimes (said the Judge) arise from the new state of things; and courts, not legislatures, are to find new and adequate punishments." From the time of the Union, down to the present, no such punishment is found. The circumstances of the country are new; the Lord Advocate is puzzled; he finds no precedent for a century; he looks for the law. Where does he endeavour to find it? Not beyond the Union; no, but beyond the Union of the two Crowns; and not finding it any where, he has recourse to ingenuity; he reasons from analogy, and finds he may transport these culprits to Botany Bay. This is a new case, for which there is no punishment prescribed by statute; no precedent to support it; nothing which can warrant it, but an argument from analogy. For my part, I think the new method of punishment in Scotland as dangerous as the old method in England is adequate. "What then is it we say to you? We tell you, We live in a country not totally exempt from the crime of sedition, though we allow there never was less of it than since the accession of the House of Hanover; we, who are well acquainted with the crime, are able to judge what is the punishment suited to the offence: We know that, in point of fact, the punishment inflicted in this country is so adequate, that sedition was never less complained of. We have practice in our favour: You are totally ignorant of the crime, and equally ignorant of the punishment suited to the crime; you may have had more confusion in your country for the last century than we; but we think a few libels, and one or two mobs, better than two rebellions: This crime to you is new, to us it is old; we tell you your new remedy is dangerous; our old one we find adequate; we therefore wish to recommend it."

" But whilst we are kindly interfering, whilst we are offering our friendly advice, we are told that we are speculatists, that we are no judges; we are incapable of dictating. When we offer part of the criminal law of England, and tell you that imprisonment is the punishment suited to the offence, you return for answer, that imprisonment for many years is worse than transportation. This, Sir, I deny. Imprisonment cannot be compared with transportation for fourteen or even seven years. But what is the case in this country? The punishment in few cases of libel has exceeded two years; the longest I ever heard was five years. And that, Sir, give me leave to say, was not a proceeding which reflected the highest honour on the country (Lord George Gordon's imprisonment). But for a misdemeanour, I know a single instance of seven years imprisonment having been inflicted. Does any one think seven years imprisonment is equal to the offence of sedition? Indeed, Sir, when I heard of this severe punishment being inflicted on a man in this country, and when I saw it connected with the name of the Judge, for whom I have a personal esteem (being no other than my Learned Friend, when Recorder of London), I inquired what crime the prisoner could have committed; but found he was convicted of an offence little short of murder, and that the misdemeanour was aggravated by several other shocking offences. Surely, the crime of sedition does not require a greater punishment than that which our constitution inflicts on those convicted of the most heinous offences!

" The Learned Lord has gone into clergyable offences; but, Sir, arguing about felonies has nothing to do with the present question; this constitution could not have been preserved, if we did not observe a greater jealousy with regard to State crimes than any other. I cannot suppose there will be a desire in judges and ministers to press excessive punishment in cases of petit larceny, or other small offences; but I can well imagine that punishment may be pressed against those who oppose their measures, or are obnoxious to their schemes; the jealousy should be greater where we have any reason to suppose men high in power may be actuated by improper motives.

" Treason is the same in both countries, nor can I see any sort of difference with regard to sedition; it was not more local than treason, and was equally directed against the King of Great Britain, in whatever part of the kingdom committed; the punishment therefore ought to be the same on both sides the Tweed.

" But,

" But, Sir, I must take notice of what has fallen from a Gentleman relative to juries (the Master of the Rolls); I believe what he says is not the fact. He says sheriffs name twelve men to sit on juries; they do no such thing; they chuse sixty men, and twelve are chosen; the prisoners having a right to challenge. In this country there is nothing like the same danger therefore of a jury's being packed, as there is in Scotland. But suppose sedition to be an English crime, and that an Englishman in Scotland publish a libel against the Government of this country, he must by the laws of Scotland, be tried by principles totally different from English. How absurd! An English crime ought to be tried by English laws, and by English principles. I confess I feel, Sir, the importance of this question; I feel the House has the greatest interest in the motion made this night; and considering the question in the bare particular view of sedition, there is ample ground for going into inquiry: We should know what it is; that we may not comment upon, speak about, write of, or venture to propose reforms in Scotland. If in England I am accused of sedition, it is not the general crime which is laid to my charge; there is some specific act stated: Supposing even the act I am accused of proved, and that I am found guilty, if it does not appear a crime in the eyes of the law, I still shall be relieved; but what is the case in Scotland? The general crime is stated in the indictment: I have seen the general crime the major proposition of the syllogism in the case of Mr. Gerald: But the Lord Advocate treats with levity the idea of packing juries; and he tells us with triumph, that in all the late proceedings the juries were unanimous. What does this argument prove? Nothing. It is true they may all be unanimous, but surely they still might all have been collected under the eye of the officer, and direction of the Court; but, good God, Sir, however I may disagree with many of my friends on other topics, will they not all agree with me in this? Will they not all see its danger in the same view that I do? Will they not all coincide with me in declaring, that no man is safe, no man's liberty is secure, if he can be charged generally on the crime of sedition.

" I am taking the late proceedings, for argument's sake, to be strictly consonant to law; though God forbid I should ever be inclined to think them so; yet is there not something, with respect to the evidence in those cases, which calls for your interference? You recollect the production of Anne Fischer, that infamous witness, that domestic spy, whose testimony I cannot recollect without shuddering at it; yet she, and other such witnesses, were produced as to the general charge of sedition.

tion, Do I stand in a British House of Commons? Which of you is safe, if charged on the general ground? If every action is to be examined, if evidences from different quarters are to be collected to prove different charges, without any specific act being stated in the indictment, I appeal to every man, who hears me, is there any liberty in the country where such practices are allowed? Which of us can be comfortable in our minds, if such doctrines are countenanced? Let us set free our countrymen on the other part of the island. Let us go into the Committee; and let us both legislate and declare; the people of Scotland have a right to expect both; and I hope, when the House becomes more accurately acquainted with the proceedings, I shall see the sentence itself condemned, the mode of conducting those trials censured, and the production of that infamous witness Anne Fischer reprobated, and looked on with disgust. What, Sir, is not a man to say out of doors what has been advanced within the walls of this House? Is a man to be punished by transportation for advancing political sentiments, which, if declared here, would be taken no notice of? Has no one in this country a right to think or speak on political questions but Members of Parliament? Indeed, Sir, if general sedition is allowed as a charge, and such witnesses as Anne Fischer are produced to maintain and support it, I can easily conceive the danger of delivering sentiments freely in any place.

"I recollect, when I was a boy, attending the debates in the gallery of your House, a sentiment fell from the late Earl of Chatham, which warmed my breast with admiration; and which did him more honour in my eyes, than many things that have since been related of him. The American war was then extremely popular, and a Member having asserted that there was a rebellion in America, "I rejoice (said this great man) that America has resisted: I rejoice that she has shewn that symptom of British spirit and British blood in her veins; and I hope it will flow unimpaired to her descendants, till they have accomplished all they merit." This raised him high in my estimation; this splendid sentiment he never after denied; for though he left this House, it is well known what he uniformly advised in another. If he was in Scotland at that time, and if ministers had an opportunity of prosecuting these words before the Court of Justiciary, his sentence would have been transportation: Or perhaps this punishment would not have been sufficient; and if one of those Judges who lately presided, had then the direction, the torture might have been introduced as alone adequate. But, Sir, is not sedition the most likely charge that men may unjustly suffer, especially if

if the specific act be not mentioned? I again repeat it, if such a proceeding is countenanced, there is not a spark of liberty; and if such evidence is to be permitted, there is an end to security of liberty or life.

"But, Sir, allow me to say a few words in answer to a challenge thrown out by a Learned Gentleman (Mr. Dundas): Does he mean to say that, intrusted, as he is, with a great employment in this country, and consequently enabled to know the extent and application of the criminal laws of Scotland, that he thinks those laws inadequate? Why then, Sir, reflecting on his situation, and seeing all the trusts that are reposed in him, does he suffer crimes to be inadequately punished? Will he, forgetting his situation, sit supine and inactive, and leave them unpunished? Or, will he act the more manly part, and say, I cannot sit and see such crimes punished in so inadequate a manner, without attempting to alter them. Which will he do? Will he prefer the latter? If he does, I give him credit for his courage and his consistency, absurd and eccentric as the idea of increasing the punishment is: If he does not alter them, I cannot give him credit for either courage or consistency: If he attempts to alter them, I then give him credit for his courage; for others have been "*very severely*" punished for less dangerous attempts. If, Sir, from various things which have happened in another country, the Right Hon. Gentleman thinks the name of liberty unpopular, I shall conceive him to be void of courage, if he does not flatter that power which smiles on him; and if he does not enter into hostility with general liberty, he will in that case be neither consistent nor courageous. But this assertion of that Hon. Gentleman on the laws being inadequate, is not an assertion which has accidentally escaped in the warmth of debate; it must have been an expression carefully considered, and minutely examined; it has been ruminated over for four or five days; nor, Sir, is it to be received with indifference from that Gentleman; his official situation makes every thing which comes from him of consequence. The Gentleman does not say he advances this, because he is dared to it: I would nevertheless advise him to beware how he meddles with the liberties of Englishmen. I would advise him to consider well before he increases punishment; and I would also request him to treat our laws with suitable respect. Let him not think them inadequate till he makes some motion to that purpose, and ascertains whether this House thinks with him on that point. For my part, I never found the laws inadequate, without moving an amendment to those laws; but I am aware, Sir, he may get over the expression, in one manner; he may say the laws

laws are inadequate, but the danger and the risk run in changing them will not compensate for the advantage that may be derived. But, Sir, I like not these declarations or insinuations; and I am firmly satisfied that something ought immediately to be done to correct this abuse of law in Scotland, and to put an end to the specious tyranny practised under the pretext of administering justice in that part of the kingdom."

The Attorney General rose, and observing that *Mr. Burke* was also on his legs, and that many in the House called upon the Right Hon. Gentleman, said, that it gave him pain to detain the House at so very late an hour, and still more to interrupt the Right Hon. Member; and he begged that the Right Hon. Gentleman and the House would excuse him for taking up a little more of their time, to discuss a subject in which he was professionally engaged and had been personally alluded to. A Right Hon. Gentleman, on a former occasion, as well as on that night, had done him the honour to give to him the credit of a transaction which he could by no means think of ever tacitly assuming to himself, but give it to those to whom it belonged; he meant, the treatment of *Mr. Winterbottom*, which was, in fact, the voluntary act of the court, who, the day before he interfered at all, had expressed a wish and an intention not to send a Gentleman to the same prison with felons and vagabonds. He disclaimed, therefore, all other merit in the transaction, than seeing that the judgment of the court was executed.

The Right Hon. Gentleman who preceded him had said, that he disapproved of the punishments inflicted on the prosecution of some offenders lately, considering them to be altogether unprecedented. In answer to this, he would say, that if the punishment was unprecedented, the offences were novel, and required an extraordinary remedy. They were the offences of persons acting by system, in combinations and bodies, for the avowed purpose of subverting the established government; and to that end, publishing libels of a kind never before seen or heard of: And so well convinced was he of the truth of the fact he was about to state, that he would stake his reputation upon it, that, on a due examination and comparison of the determinations and sentences of our courts for any period since the Revolution, even of those Judges most revered and remembered as patriotic and constitutional judges, with those of the last two years, the latter would be found extremely mild and lenient. For his own part, as Attorney General, since he had been honoured with that office, he had not claimed any particular punishment, conceiving that it was not any part of his province to interfere with what properly belonged

longed to the court alone, his duty being no more than to bring the offender before the court for judgment.

The Right Hon. Gentleman (Mr. Fox) had not in his judgment stated one reason sufficient to induce the House to accede to the motion—a motion not confined to any particular point, but which went to alter the whole criminal law of Scotland, essentially to subvert the established system of their courts, to change the prosecutors, to change the jury, to change the indictment on which the charge was tried, to change the right of challenge, the evidence, the verdict, and the sentence on that verdict; and that in every case and every crime, and on no other grounds than the cases of two individuals: And yet, while the motion involved all those circumstances, Gentlemen would venture to insist that it did not go to an alteration of the whole of the criminal laws.

One of the most material grounds to be taken into consideration was, Whether it was necessary, expedient, or politic, to change the whole habits of jurisprudence, and the constitution of the courts of a country? The Attorney General said, he would repeat what had been before said, *viz.* that there was an indissoluble compact, a firm treaty in the way, which no sophistry could get over; for it was idle to say, as had been urged, that the eighteenth article of the Union permitted, much less invited, the substitution of the criminal laws of England in the place of those of Scotland. The nature of criminal justice, both in Scotland and England, was perfectly well known at the time of the Union, and had been so ever since, to this day; and yet he could not, in all that time, find a single attempt to exercise that permission, or accept of that supposed invitation, which it was reasonable to suppose would have been done, if the change was at all in the contemplation of those who bore a share in that Union; so that the treaty would, if the change proposed by the motion then before the House was applied, be completely broken, and there would be an end of the faith pledged by the Articles of the Union; and, indeed, it must appear astonishing, that if the invitation to substitute the laws of England was so plain as the Learned Serjeant had endeavoured to persuade the House it was, the patriots of England and Scotland never should have found out till lately, that all the criminal proceedings of that country were a nuisance, and that they should remain so long undressed and unaltered, even while the Hon. Gentleman himself (Mr. Adam) represented it in Parliament.

With regard to what had been said of evidence having been given on the trial of Muir, out of the matter charged in the indictment—

indictment, it would be found to lose much of its weight when gravely and maturely considered. He would not deny that it would be convenient to justice, if it were possible to have all the facts laid in the indictment: But he wished Gentlemen to recollect, that, in prosecutions for treason, evidence might be given of overt-acts, though not charged specifically in the indictment, so they were of the same nature with those charged; and he could see no reasonable objection why they should not, if it were the law, as appeared to be the case, give evidence of the same kind on criminal cases in Scotland.

The Attorney General proceeded to shew, by a fair comparative statement, that the Lord Advocate of Scotland had not more power, nay, not so much, as the Attorney General of England. The power of the former was more actively exercised, but not in a stronger manner or with greater effect. Both had power to proceed in the prosecution of criminal cases. The Lord Advocate could only stop those causes in which the prosecution was carried on at the suit of the Public; whereas the Attorney General could, by his *noli prosequi*, stop all and every sort of criminal cause. He, for his part, however, dared not do it; because, however legal it might be, he should consider it as a breach of his fidelity and duty to the Public.

On the head of discretion, which it had been said was vested to an inordinate and dangerous extent in the judges of Scotland, it would be found upon examination, that full as extensive a discretion was left in the breasts of English judges: In various cases, they had the power of sentencing to pillory, fine, imprisonment, &c. &c. inflicting as to their discretion seemed proper. In some instances, he would maintain that the laws of Scotland were still more favourable than those of England to delinquents, and he would state a fact, which, however he must lament it, was certainly true, in elucidation of his assertion, namely, that it constantly happened, that men were tried for crimes which were by the law deemed capital offences, and therefore subject to capital punishment, yet, to which it was so horrible to both judge and jury to assign capital punishments, that the judge has not infrequently charged the jury to a find a verdict under a shilling, where the article in question was obviously worth some pounds; and where the jury, acting from the same principle, had thought it their duty to comply with that charge. In Scotland, too, arbitrary punishments were annexed to a variety of crimes which in England were punished with death; and even

that arbitrary sentence was as much a subject of the mercy of the Crown, as the compulsory capital sentence of an English criminal court.

The Right Hon. Gentleman had taken up, but without the smallest foundation, an expression which had fallen from his Learned Friend, and thence endeavoured to infer that his Learned Friend had meant that an alteration in the laws should originate with the Crown. He denied the inference; but would at the same time say, that as the treaty of Union was made by the Crown, any measure, that at all touched Scotland, would come much more properly from the Crown or its servants, than from any other person, as the King's ministers were more likely to know the feelings and disposition of that country on the subject. Had that been attended to, the present discussion would have been saved; for not one whisper of complaint against those laws ever came from the persons concerned in their operation. Upon various appeals to the Lords, the question had been repeatedly decided, that appeals would not lie; and yet no attempts had been made, no wishes hitherto expressed, to alter the laws in that respect.

Mr. M. A. Taylor declared, that he would rest his vote on the arguments which had been used by his Hon. Friends; because they were such as stood unrefuted; and he could say, with truth, that, in voting for the motion, he never gave a vote that was more strictly in unison with his conscience, than it would be on the present. He never would sit silent, and hear it said, that the severe sentences passed on Messrs. Muir, Palmer, Margarot, Skirving, and Gerald, were legal, but would on every such occasion rise and heartily dissent from such a proposition. He insisted that the criminal law of Scotland required alteration; but, on a former night, a Right Hon. Gentleman (the Chancellor of the Exchequer), instead of answering his arguments, asserted that he had a very loud voice. If it were so, he declared that he was determined to exert it in the cause of freedom; and, like the Hon. Gentleman, who was not less loud, he would not exercise it against the liberties of his country, and for the purpose of preserving that power and those places which he enjoyed. *Mr. Taylor* mentioned a circumstance with respect to *Mr. Gerald*, which he said he knew from the best authority to be an indisputable fact. He had objected to the Chief Justice Clerk sitting in judgment on him, because *Mr. Gerald* had been assured that he had made use of expressions against the prisoner. The Chief Justice, it was true, withdrew; but the other judges over-ruled the objection; and what would the House imagine was the consequence? that which they would scarcely believe, *viz.* that one

of the judges pronounced, that this was an aggravation of the prisoner's guilt. Mr. Taylor said, he would not dwell longer on the subject, but would put it to the Attorney General, if he would have acted in the same manner, had he been in a similar situation? No, he said, he knew him too well, and he was convinced that his sentiments would have recoiled at the idea.

Mr. Adam, in reply, declared, that he would not have risen at all, had not the Lord Advocate's manner of arguing obliged him not to be silent. His Lordship had said, no communication of an intention to bring forward such a question had been made to him, as if he meant to complain of the personal incivility. Mr. Adam shewed that the public notice, which he had given the last Session, was all that could be required consistently with the practice of Parliament, and was sufficiently public and notorious. He said the same applied to the court, that the mode he proposed was most deliberate, and nobody could pretend to have been taken by surprise. He reprobated the doctrine of questions of this sort coming only from the Throne or the other House, as tending to destroy the deliberative function and capacity of the Commons. He stated that the Articles of Union formed a preliminary objection, which was false in law, as had been shewn; and he would undertake to prove that it was equally false in practice. The Lord Advocate had last Session brought in a Bill to alter the Tithe Law, that struck directly at private right, a circumstance which could not be imputed to his proposition. Mr. Dundas, he stated, had brought in a Bill to alter the Court of Session fundamentally; that Bill struck at the constitution of the Courts, his did not; for it was not true that chusing the jury properly, disturbed the constitution of the trying tribunal. Did any body think so, when the Ballotting Act was introduced into England? The constitution of the Jury in Scotland, their power, and numbers, were to remain as at law they now existed. But they were not to be nominated from the 45 by the court. [Mr. Adam shewed that his statement had been correct as to the nomination of juries.] He said, that, by some unaccountable association of ideas, Mr. Dundas had asked if he meant to alter the church of Scotland? If he were to answer so odd a question, he should say, no; but that he (Mr. Dundas) had proposed so to do at a memorable era of this country, namely, in the year 1780. The Right Hon. Gentleman proposed an alteration in the popery laws of Scotland. Was it then stated that this struck at the treaty of Union? Here were therefore three glaring instances—Tithes, Court of Session, and Popery, all trenching on the Union, and all brought forward by those Gentlemen, who that day opposed his motion. The
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proposition that he had ventured to bring forward, on the contrary, was strictly within the 18th Article, as matter of public law and police. Was there any necromancy that made all the things which had been done by those Gentlemen right; but wrong, if attempted by him, or those near him? He argued from the clause respecting heritable jurisdictions, which, though clearly imperative, was not regarded when policy required the abolition. He next shewed that the Lord Advocate's power, in deserting the diet (prosecution) was irresponsible, and that the Attorney General's *noli prosequi* was a responsible power. He also quoted the case of Dundas indicted, in 1712, for speaking and acting in favour of the Pretender, where the prosecution was deserted without any person being accountable for deserting it; and after putting these and other points very forcibly in different views, he said, "It is impossible to contemplate these proceedings, without reflecting on the history of the close of the last century. The Right Honourable Gentleman (Mr. Dundas) has, notwithstanding, declared, that it might be wise to follow the system of the law of Scotland here. It is a threat which, I believe, the Right Honourable Gentleman will not attempt to execute; and yet the very threat reminds me of that disgraceful period alluded to." The trial of Mead and Penn, in 1670, was known to all who knew the legal history of that period, when those persons were tried for seditious speaking. The jury found a verdict which the court did not relish. The recorder (not such a one as his Learned Friend Mr. Adair had been) determined that they should find another verdict. He went to extremities, and, upon the objection of Penn, he ordered fetters to be brought. Penn said, "Do your pleasure; I matter not your fetters."

The Recorder. "Till now I never understood the reason of the policy and prudence of the *Spaniards*, in suffering the Inquisition among them: And certainly it will never be well with us, till something like unto the *Spanish* Inquisition be in England.

To the Jury he said,

"Gentlemen, we shall not be at this trade always with you; you will find the next Session of Parliament, there will be a law made, that those who will not conform, shall not have the protection of the law."

In like manner Mr. Adam said, we were told at this day, "that the severity of the Scots law should be the pattern for England. We understand the Scots policy and prudence; it will never be well with us, till we have something like it here; and in the next session of Parliament there will be a law." Mr. Adam said, he believed there might be inclination enough, but

there was not courage enough to propose such a law; that, at any rate, his motion was meant to avert such an attempt; and he could not forbear remarking in that place, what had fallen from a Learned Lord, that he (Mr. Adam) did not perhaps feel satisfied with what he had moved. He said he had not brought the matter forward without the most mature deliberation; and that he was ready to lay open his intentions and motives to the most scrupulous investigation.

The House divided on the Motion,

For the Motion 24

Against it 77

Majority 53*

HOUSE OF LORDS.

WEDNESDAY, *March 26.*

Lord Grenville laid before the House the papers which had been moved for by *Lord Lauderdale* on the 25th, viz. the Circular Letter to the Lords Lieutenants of the several counties, the plan for augmenting the forces for the internal defence of the country, and the plan for raising companies of infantry to man the batteries on the coast.

THE ADDRESS.

Lord Grenville said, that after the expression of their sentiments, which had on more than one occasion been made by their Lordships, he was persuaded there could be but one opinion in that House with respect to the Motion he was about to make, and therefore, as he had not the smallest reason to suppose their Lordships had changed their sentiments, he would, without further preface, move, "That an Address be presented to his Majesty, most humbly thanking his Majesty for his gracious communication, and for that reliance which he had placed on the concurrence of the House, and on the zealous exertions of his people; and assuring his Majesty, that the House was most cheerfully disposed to concur in every measure which he might deem requisite for the defence of the kingdom, in the just and necessary war in which we were engaged."

The Earl of Lauderdale said, he rose not to oppose the Address, but to complain of certain words introduced into that Address. He could have wished that it had been drawn in such a manner as to have been altogether unexceptionable.

* By an error of the press, page 332, the numbers on the division were misplaced; they should have stood thus:

Ayes (for the Bill of Indemnity, moved by Mr. Grey) 41
Noes 170

Majority 129

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When unanimity was so desirable, and might so easily have been obtained, why was the war declared to be "just and necessary," when it was well known that there were Noble Lords in that House, who had uniformly opposed the war, on the grounds of its being unjust, unnecessary, and impolitic? He saw no good reason for using the words "just and necessary," as descriptive of the war in the Address; they were not called for by the occasion, nor could they be intended for any useful purpose: Perhaps the object of introducing them, was to provoke those, who opposed the war upon principle, to withhold their votes that day, and thus break in upon that unanimity that would otherwise prevail. In the Message of the preceding day, there was nothing that made the words to which he objected necessary in the Address; and considering that every Noble Lord in that House was inclined to give every possible aid to his Majesty, that the emergency required, he was surprised that ministers could introduce words that provoked observations, which would never have been made had they been left out of the Address. He could not suffer them to pass unnoticed, lest it should be conceived, that by his remaining silent, he assented to the proposition, that the present was both a just and a necessary war. It was a war which he ever had, and ever should continue to reprobate; a war that was, in his opinion, both unjust and unnecessary; one by which this country could not be benefited, but in which every thing was hazarded. He should, he believed, support the Address, as the Message had been different from that which he had expected, and which he should have felt it his duty to argue against. He was glad to find that ministers had changed their opinions, and that his Majesty stated the ground of calling upon Parliament for further support, to be a profession of the French to invade the kingdom. In that case, though he so highly disapproved the war, he should certainly support the measure of putting the country into such a state of internal defence, as might enable it to repel the attacks of those whom we have made its enemies; and he trusted that whatever was the light in which his conduct, and the conduct of those with whom he had the pleasure and the honour to act, might be represented, he was sure that they would be found, whenever constitutionally called upon, among the first to stand forward to give his Majesty their hearty and cordial support in the defence of the kingdom. The Address, in every other part, but that to which he had particularly alluded, was, in his mind, unexceptionable. He never would have hinted any sort of opposition on the subject, as he had done on a former day, if he had known that the Message was to be worded as he now found it, because, when he considered what had formerly been said, he

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he understood, that the Message was to ask their Lordships' approbation to the plan of augmenting the land forces, in a manner that was equally new and unconstitutional; whereas, if the sense of it, and the words in which that sense was expressed, only stated, that, in consequence of an expected attack and invasion from the enemy upon this country, his Majesty had thought it necessary to augment his land forces, and called upon that House for their aid; it was an aid, that he was sure, under such circumstances, every man in the country would grant. Having said thus much, and only wishing, for the sake of unanimity, that the words to which he had alluded, had not been introduced into the Address, it was not his intention to say more upon it.

With regard to the papers on the table, he entertained a very different opinion: He conceived them to be of a nature perfectly unprecedented and illegal, in so far as they went to give powers to the Crown which had never been given, and were always looked after in the most jealous manner. He meant a grant to raise an armed force within the kingdom, and to allow subscriptions to be appropriated by the Executive Government, and at its disposal: He thought that, as far as concerned the external safety of the country, ministers were doing right, by taking every step to strengthen it against the dreaded attack from the enemy; although he could not allow them any credit for the conduct they had pursued, and which had brought the country into such a situation as that in which they now found it to be. Had he, or any of his friends, last year predicted the probability of such an emergency, they would have been told, that they were Jacobins in principle, and that their minds were so distorted, and their heads so deranged, by French principles and French connexions, that they were talking in the most wild and extravagant manner, about matters that not only did not exist then, but were never likely to have existence. At that time, after all the alarm that they had been able to create, it had been said, that two thousand men sent over from this country had secured Holland, destroyed the greater part of those miscreants who had over-run Flanders, and would soon annihilate the rest; and now, when all these chimerical fears were scouted, even by those who had propagated them last year, ministers found it necessary to call for the strongest support that the country could give, while they boasted, at the same time, of the great successes and advantages we had obtained, as much as to prove that the principal alarms of last year, though false and imaginary at that time, had, by an unfortunate train of events, become real now, and wore a most serious aspect. To avoid rising again, his Lordship said he would take that opportunity of giving notice, that, on Friday
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the 28th, he would offer a motion, to bring the legality of levying troops by private subscriptions under their Lordships' consideration. The House was ordered to be summoned for that day.

Lord Sydney rose to say a very few words, in order to take some notice of the Noble Earl's displeasure, at their having presumed to express the sentiments they felt, and had avowed as a House of Parliament respecting the war. Would it have become their Lordships to have been afraid of calling it a just and necessary war, in order to court a little temporary appearance of unanimity, by thus condescending to sink their own opinions, in compliment to those who had chosen to deny that the war was just and necessary? So highly, his Lordship said, did he think it proper to avow their sentiments on the subject in the face of the country and of the world, that notwithstanding the great deference he entertained for his Noble Friend the Secretary of State, had the words "just and necessary" been left out of the Address, he believed he should have moved an amendment for the sake of inserting them. In no war had England ever been engaged that was either so just or so necessary. The bloodthirsty people of France, whom he was at a loss by what name to address, had threatened that we should have neither King nor Constitution, but that we must adopt their sanguinary mode of government. He could assure the House, that in every county in which he had been, there was the most general unanimity to support his Majesty's government. Doubts had been entertained in some parts only, as to the manner in which that could most effectually be done. He therefore concluded, that the war was not only just and necessary, but that it was felt by the country at large to be so. He did not at any time, however, expect much unanimity or much support from the Noble Earl, and those Peers who opposed every measure of Government, though calculated to promote the purposes of the war; and by that means secure a safe and honourable peace. In that House, a few and a very few might think differently of the war; he left them to the enjoyment of their own opinion, and would content himself with giving his most decided approbation to the Motion for an Address.

The Earl of Derby declared, that he had not intended to have said one word, but he rose to rescue himself from the insinuation thrown out by the Noble Viscount in the latter part of his speech, an insinuation so little called for by any thing that had fallen from his Noble Friend, who had spoke before, that if he could suppose the Noble Viscount would wilfully misconstrue any Noble Lord's words, he should be led to imagine that he had misconstrued the words of the Noble Earl. In common with him and other Noble Lords, his Noble Friend
had

had uniformly opposed the war, as a war that was unnecessary, unjust, destructive, and dangerous to the best principles of the constitution, and the dearest interests of the country. Upon those grounds they should continue to oppose the war, and to repeat their sentiments upon it in that House and to the country at large, as often as occasion, in their judgment, rendered it necessary; but did it therefore follow, that they would be less willing than other Noble Lords to give their support to the Crown, where the exigency of the case called for it, or that they were less zealous, steady, and sincere friends to their King and Country than any description of men whatever? So far from it, that in the present instance, when his Majesty in his Message stated that the French threatened to invade the kingdom, and at any time if there should be an insurrection, a rebellion, or a civil war in the kingdom (which had once been held as a matter of alarm, but he believed was no longer dreaded, and indeed neither of which he had at any time had any fears about), he was perfectly sure, that there were no persons in that House, or out of it, who would be more ready to shew their attachment to the interests of the country, or to give their support in strengthening the hands of his Majesty's ministers as much as possible, to enable them to make exertions for its internal defence, than they would, however much they might reprobate the conduct which had brought the country into so perilous a situation. The Noble Viscount's insinuation, therefore, was extremely unfair, unbecoming, and unwarrantable; and as it was not provoked, had all the appearance of a wilful misconstruction of the conduct of those who would persevere in opposing the war, as unjust, unnecessary, and dangerous to the dearest interests of the country.

The Earl of Lauderdale professed to be not a little surprised at the conduct of the Noble Viscount, with whom it seemed that the declaration that the war was just and necessary, was so extremely great a favourite; that the Noble Viscount's vote would even have been left to his Noble Friend the Secretary of State, if those words had not been inserted in the Address. Perhaps, as the words did not appear in the Message, which had been brought down the preceding day, but did appear in the Address, they were put into the latter merely to please the Noble Viscount's palate. With regard to the Noble Viscount's insinuation, that because a few, as he had been pleased to term them, opposed the war in that House, and were determined to persevere in opposing it, they would not give their support to any one measure, however from its nature right and necessary; was that the Noble Viscount's idea of the spirit and character of Opposition, and had he governed himself in that way, when he (*Lord Lauderdale*) had the honour some years since to act with

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with him in another place, where the Noble Viscount had been one of the most eager members of an opposition, as powerful, as zealous, and which was actuated by as much party spirit, as any opposition that ever existed?

Lord Sydney rose again, not, he said, in consequence of what had fallen from the Noble Earl who had just sat down, but to take notice of a particular observation, that had fallen from the Noble Earl on the same bench with himself (*Lord Derby*). He begged leave to assure that Noble Earl, that he was just as capable of a wilful mis-statement of any Noble Lord's speech as the Noble Earl was himself, and no more. With regard to what the Noble Earl, who began the debate, had said of former oppositions, in the whole course of his Parliamentary experience, and his Parliamentary life had been a pretty long one, he did not recollect a single instance, of a few Lords objecting to particular words in an Address in answer to a Message from the Crown.

Lord Grenville rose to assure the House, that he had come prepared to have stated his sentiments on the subject that had been expected to have been brought forward that day, and whenever the Noble Earl would bring forward the motion of which he had given notice, he would find him ready to meet him, as he would then contend what he would now assert, that the measure which had been adopted for raising an additional internal force was warranted and supported by law, by precedent, and by authority, as well as sound policy and expediency; and was, moreover, perfectly constitutional. With regard to the words "just and necessary war," he was ready to repeat his former assertions, and should be extremely sorry ever to concede or compromise matters so far with those who had opposed the measures of Government, and the whole conduct of the war, as to obtain their unanimity upon any proper and necessary step, by such a sacrifice to their opinions, as relinquishing those which he had and would continue to hold on the expediency, the justice, and the necessity of the war. As to the difference of circumstances between last year and this time, he was particularly proud and happy to reflect upon what had happened, upon the very same grounds that the Noble Earl had contrasted them. At that time he had said, that a small number of British troops, under the command of a British Prince, had the effect, under these circumstances, not only to save Holland, but materially to repel the progress of the enemy; the fact was undeniable. Even if the occasion suited, it would be unnecessary to enter at large on the justice and necessity of the war; that had long since been admitted by all, excepting only a small minority in that

House. And why should the House, for the sake of an unanimity which could not be expected from a certain quarter, be afraid to avow, in the face of Europe, the justice of the war? What were the House called upon to do by the Address? Not to decide on the justice or necessity of the war, but to assure his Majesty of its concurrence in those measures which were necessary for our own defence, and to render the war successful and vigorous.

The Earl of Guildford (who had recently entered the House) agreed perfectly with his Noble Friends in what they had said respecting the right which every Noble Lord had to object to the words of the Address, however willing they might be to agree to the general purport of it. He said, he did not mean to detain the House, but could not help thinking it a little hard, that when his Noble Friends were disposed to support the motion, they should be told that unanimity was not desirable, and that their support was not wanted. It was, the Earl said, rather a singular moment to be told so, when such was the pressure of the war, that an invasion of the kingdom was professed to be expected by his Majesty's ministers, which surely might fairly be considered as no weak proof that the war was not pregnant with the most favourable consequences. Since he had been in the habits of differing from those who were in his Majesty's councils, he had given proofs of a readiness to support the measures of Government, when he could do it with consistency and with honour: He would only mention two, the first Dutch war, and the armament against Spain; but that was no reason why he should agree to words in an Address, which were directly the reverse of his conscientious opinion on the present war, although, as far as regarded the safety of this country from any attack, or invasion, no man would be more active in support of its defence. He a second time adverted to the arguments of the Noble Secretary of State, who gloried so much in the difference between the situation of the country last year and at present. Last year it was said to be in ten times more danger, and his Majesty's ministers had taken no step whatever for its defence; now, that the difference was so great and advantageous as to give the Noble Lord so much ground for exultation and triumph, they were forced to come to Parliament, and appeal to the country for assistance, on account of the dangers to be apprehended from the threatened attack of the enemy.

The Marquis Townshend said, he saw no reason whatever to object to the particular words complained of; he, therefore, must insist on the justice and necessity of the war. In fact, the war was not only just and necessary, but unprovoked and unavoidable.

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unavoidable. Great Britain had stood by without interfering, till the blood-thirsty rulers of France made their memorable declaration, so hostile and so alarming to all other nations. When they told us we should have neither a King nor a Constitution, it would have been highly blameable in ministers to have remained inactive. Self-defence forced us into the war. With regard to the message, and the call upon Parliament to provide for the internal defence of the kingdom, it was a proper measure. There were, to his knowledge, various populous counties, who only wished to be called upon, who were eager to offer their services. He lived himself, the Marquis said, in one of the most populous manufacturing counties (Norfolk) in the kingdom, and such was the case there. [Cry of *Hear! Hear! Hear!*] The Marquis said, he knew what was alluded to, but was not afraid to state it. A misunderstanding had at one time prevailed, and it was imagined all the pressure of the war was to fall solely on the poorer sort, and not on the rich, the gentry, and the higher ranks; but that misconception had been cleared up, and the case stood exactly as he had stated it. He could therefore maintain, that, as far as he was acquainted with the sentiments of the country, the people were anxious, and only waited the sanction of Parliament, to rise in its defence. There could not be one reason urged against it, for how could we keep a great strength at home without weakening our force abroad, which he hoped would not be the case, for that, if he might be allowed to put an instance in his own professional line, would be like keeping a great force within a garrison that was to be attacked, and leaving the outworks, by which alone an attack must be attempted, entirely defenceless and unprotected.

The Earl of Lauderdale rose once more to observe, that it was a curious proof that the situation of the country was better at present than it was before the war began, when before the commencement of it ministers had asserted, that the mere sending of 2000 troops to Holland, and those measures in the execution of which a Noble Lord then present (*Lord Auckland*) had so large a share, would soon put an end to the war. And he had not forgotten the prediction of that Noble Lord last year, respecting the then rulers of France. *The Earl* said, he did expect to have seen upon the table, among the rest presented, certain other papers which had been sent to County Meetings to be canvassed there, before they were submitted to Parliament.

Lord Grenville said, he was ready to meet the Noble Earl on the assertion that he had so particularly adverted to, *viz.* that we were at this moment in a better situation than in all human

probability we should have been in had not the war commenced; and so far was he from thinking with the Noble Earl, that he was convinced, that if he were to select a point of time more peculiarly favourable to his argument, in order to establish the proof in question, than any other, it would be precisely that which the Noble Earl had fixed on. By sending the troops to Holland, as we did, we had rescued the United States from the danger that threatened, and, with regard to the predictions of his Noble Friend near him, let the House decide for themselves how far those predictions had been verified. His Noble Friend, speaking of the atrocious conduct of those who governed France at the time that the French army over-run Flanders, had said, the divine vengeance had overtaken some of the wretches who were the authors of all the calamities to which he alluded, and that he had no doubt but that it would overtake many more. How far this had been verified let every man form his own judgment. His Lordship justified the conduct of his Majesty's ministers respecting the King's message, and said, that undoubtedly plans had been in preparation for the internal defence of the kingdom, and that those plans had been submitted to the consideration of the persons who were designed to be entrusted with their execution. So far he admitted, and would be ready to discuss and defend the conduct of his Majesty's ministers in this respect.

The Lord Chancellor then put the question upon the Address, which passed, as he said, *nem. con.*

Earl Stanhope said, "No, my Lord: I said *not content*." The Earl, therefore, was the single *not content*.

CRIMINAL LAWS OF SCOTLAND.

Lord Lauderdale reminded the House, that early in the session he had given notice of his intention to call upon their Lordships to take the Criminal Laws of Scotland into their consideration. The reason why he had not done it before this time was, that an Hon. Friend of his (Mr. Adam) having taken up that business in another place, he thought it incumbent on him to wait the event of that application, hoping that the subject would have come before the House in a legislative form, which would, in his judgment, have been preferable to any motion of an individual. The Learned Lord on the Woolfack, the House would recollect, had, on a former occasion, stated, that although no petition had been presented to his Majesty by the parties convicted before the Court of Justiciary in Scotland, yet that his Majesty's ministers had referred to the Judges on the subject, and that a paper was in existence, which contained the return and report of the Judges

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of the Justiciary Court. He understood, that Mr. Palmer had since petitioned his Majesty for mercy or justice, he would not enter into the distinction; that petition, therefore, had necessarily been referred to the Scotch Judges, and they of course, he presumed, had transmitted their report upon it: He meant, therefore, to move for their Lordships to be summoned on Tuesday the 8th of April, and he wished to have the report of the Scotch Judges on the Table.

The Lord Chancellor left the Woolfack, and said, that on a former occasion, when he had troubled their Lordships somewhat at large on the subject, what had fallen from him must be within recollection. If it did not dwell on the Noble Earl's own mind, it would, he flattered himself, dwell on the minds of their Lordships, that he had said, there was a paper on the subject in existence, and he had lamented that it was so circumstanced that it was utterly impossible to lay it on the Table. The fact was, it was a paper of a Scotch Judge, with his opinion of the merits of the trial, but such a paper as could not be produced. With regard to a petition having been presented to his Majesty, he had never heard of any. If a petition of the sort alluded to had been presented, he, at least, had never seen it. He would, however, make it his business to obtain proper information respecting the matter between that and the long day that the Noble Earl had named.

The Earl of Lauderdale said, he was very unfortunate to be so mistaken, if he really were in error. He conceived he had heard the Noble and Learned Lord state the circumstance distinctly as he had mentioned it. But he deemed himself still more unfortunate to be mistaken in the fact, and to hear that no petition had been presented. As the Noble and Learned Lord, however, had said, he would be so good as to obtain proper information, and communicate it to him or the House, he must wait for that information, as he certainly could not move for a paper, which was stated from so high an authority to be not fit to be laid on the Table.—Adjourned at six in the evening.

HOUSE OF COMMONS.

WEDNESDAY, *March 26.*

The Woolferton, Ludlow, and Clere-hill Road Bills, were read the third time, and passed.

The Greenland Fishery Bill was read a second time, and ordered to be committed.

Leave was given for a Bill for Stamping Bills of Exchange.

Several

Several East India Accounts were presented preparatory to opening the India Budget.—To be printed.

LOTTERY.

The Chancellor of the Exchequer gave notice, that on Friday, in the Committee of Ways and Means, he would propose the terms of the ensuing Lottery.

WEST-INDIA ISLANDS.

Mr. Ryder stated, that, in consequence of a famine with which the British West-India islands were threatened, it had become requisite to permit the importation of provisions, and certain goods, in foreign bottoms; therefore he moved for leave to bring in a Bill of Indemnity to protect them for having done so.

The Motion was agreed to, and the Bill ordered to be brought in accordingly.

ROMAN CATHOLIC BILL.

The Solicitor General moved, in a Committee of the whole House, a resolution for leave to bring in a Bill to explain and amend the 31st of the present King, as far as it relates to persons therein described professing the Popish religion, and who are desirous of being admitted, and practising as Attornies and Solicitors.

The Proposal was agreed to; the Report was received, and leave given to prepare and bring in a Bill accordingly.

COMMITTEE OF WAYS AND MEANS.

The House went into a Committee of Ways and Means (*Mr. Hobart* in the Chair).

Two Resolutions for the raising the sum of Three Millions and a Half on Exchequer Bills were put and carried, and the Report of the Committee was ordered to be received the 27th.

ALIEN BILL.

On the question for the third reading of this Bill,

Mr. Fox said, he did not mean to trouble the House much at length, or to enter into any argument likely to create a long debate on the subject; but the opinion he entertained on this Bill, when originally brought in, had not been changed; on the contrary it had been strengthened and confirmed; and that opinion was, that the Bill was in a considerable degree unjust. He should, on that account, object to the renewal of such a Bill, even if it came forward at this time with all the circumstances on which it had been thought proper to pass it last year; but that was not the case, and the former reasoning on the subject would not apply to it at present. We were at war with

with France at this time, which was not the case when the Bill passed. This, in his opinion, made a material alteration in the question of right in the Crown to order an Alien to depart; for although he entertained some doubt whether the King could legally order any foreigner to depart who was not the subject of a power at war with this country, yet he was willing to admit, that the King had by prerogative a right to order any enemy to depart this realm. The Bill was not confined to sending away Alien enemies only, it gave the power of sending away any Alien whatever; and many persons of that general description were subjects of the powers with whom his Majesty was in alliance. The Bill was brought in originally as a matter of expedience against all foreigners, before we went to war, and before the alliances to which he alluded had been formed; but now the war was such as to make, by these alliances at least, a considerable alteration. In former wars we had contented ourselves with sending out of the kingdom foreigners only who owed allegiance to the power with which we were at war; but by this Bill we included those who owed allegiance to the powers with whom we were allied. He wanted to know how, and upon what ground or principle it was that, on this occasion, it became necessary to give the King further power in this respect than in any former war?

The Chancellor of the Exchequer begged leave to remind Gentlemen, that the object of the Bill was not simply and merely to empower his Majesty to send Aliens out of the kingdom, but also to ascertain the rules, according to which they were to be permitted to remain among us, and chiefly, as a measure of precaution, to prevent danger to the State. He thought that many persons might remain who were French, and it might be both humane and politic in us to keep them, on account of the violent factions by which their country was rent; there were others who were not French, whom it would be politic to send away, in order to protect ourselves against the machinations of the emissaries of the present government of that country; being at war with France, and circumstances standing as they did, he saw no objection to the renewal of the Bill.

The Bill was read a third time, and passed.

SLAVE TRADE.

Sir William Dolben moved for leave to bring in a Bill, to alter and amend different Acts of Parliament, relative to the regulation of the mode of conveying negroes in British ships, from the coast to the British plantations, &c. This motion, on the suggestion of the Speaker on the point of form, was changed

changed into the following motions: First, That the Acts of Parliament be read; which being done, then, That the House do resolve itself into a Committee of the whole House, to-morrow.—Ordered.

Sir William then moved, That there be laid before the House, an account of ships, their tonnage, number of slaves, &c. employed in this trade, from the 5th of January 1793, to the 5th of January 1794.—Ordered.

BENEVOLENCES.

Mr. Secretary Dundas presented, in conformity to the Orders of the House, upon motion of *Mr. Sheridan*, a copy of the Circular Letter sent by the Secretary of State to the Lords Lieutenants of the several Counties, calling on them to recommend to the inhabitants to promote subscriptions, to enable his Majesty to raise a force for the defence of the kingdom, together with three other papers.

Mr. Fox, looking at this *circular* letter, perceived, that it contained an apology for an *official neglect*, in its not having been before transmitted. He wished to have it explained; was this, as it should seem, a neglect to any individual Lieutenant, or was it universal?

Mr. Secretary Dundas explained, that at first the communications were merely personal to certain individual Lieutenants of Counties, but afterwards changing his mind, and fearing lest he should leave any out, he had written the letter on the table, with that apology, to all.

Mr. Sheridan insisted that the letter on the table could not be the one he had moved for, as that contained an apology for neglect in not sending some other letter; but which was not in fact an official neglect, but a change of intention in the Hon. Secretary. He therefore wished for the original letter.

Mr. Secretary Dundas persisted in saying, there was no other official communication than the one now produced, as the communications alluded to in it were perfectly personal and confidential.

HIS MAJESTY'S MESSAGE.

The Order of the Day for taking his Majesty's Message into consideration having been called for and read,

Mr. Secretary Dundas said, he should confine himself to a very few words. He neither wished to delude the people of this country by unnecessary or unfounded alarms, nor to lull them into a false and dangerous security. The House had heard the Message read: It would be unnecessary for him at this time to enter into any observations on this war in which we were engaged. It was enough for us that the enemy had

avowed an intention of invading the kingdom, and had made some preparation seemingly for that purpose. Whether that was done to amuse the people of France, or to alarm the people of England, was not his business to discuss; all that his duty called on him to do, was to submit to the House the necessity of this country being in a state of defence, and to assure his Majesty of the intention of that House, cordially to support the measures his Majesty should take for that purpose.

He proceeded to move the Address, the purport of which was, an humble declaration of the concurrence of the House with his Majesty in the necessity of repelling the attempts of the enemy to invade this country, assuring him of the zealous concurrence of Parliament in this just and necessary war, and of every exertion which ought on such an occasion to distinguish a brave and loyal people.

Mr. Honeywood expressed his cordial approbation of the measure that had been adopted, considering the circumstances of the moment. He rejoiced that the Address before the House would enable him the next day to attend a meeting of the Gentlemen of the County of Kent, at the St. Alban's Tavern, which, without some such proceeding, he should have considered as unconstitutional, and not have thought proper to attend, for fear of being rendered a *marked man*. When the defence of the country was in question, those who had already stood forward in defence of the constitution against undue influence, would not be found less zealous than those who were now basking in the sun-shine of power. They could not, indeed, be expected to possess equal pecuniary means; their purses having been pretty freely drained, in the County which he had the honour to represent, in a recent expensive opposition to the tide and torrent of ministerial corruption, which, but for a timely and spirited resistance, would have overwhelmed all Kent. He spoke in respectable terms of the loyalty and zeal of the people of that County. The yeomen of that County were ready to come forward in defence of the Constitution, but not to lend their efforts in an unconstitutional manner. Stronger evidence of this, he observed, could not be stated, than that there had been but one person convicted of any crime tending to sedition, and only three were at present under accusation. He observed also, that the Magistrates of the County had been pretty active in their endeavours to discover seditious correspondence, and had acted under the aid and direction of the Secretary of State. In the exertion of their zeal they had stopped and opened some private letters, but they turned out to have a tendency very different from sedition, for they were Valentine letters, addressed

dressed by a beautiful and accomplished young lady to a young gentleman.

Mr. Secretary Dundas rose to justify himself in the part he had taken upon the subject alluded to by the Hon. Member who had preceded him. In that particular he was persuaded, that when the circumstances of the case were known and considered, it would be admitted that he did no more than his duty. He had received information that there was a person in Kent, who was not of any very high rank, but of a station which gave him considerable influence over the lower classes of the people, in the neighbourhood in which he lived. This person, he was told, had often assembled a considerable number of peasants, and told them that the French were to land on that coast in a large body, and that if they expected to enjoy the rights of man, they must be ready to join the French when they landed. With regard to the person the Hon. Member said was convicted of some actions tending to sedition, he knew nothing of him: It was a rule with him to do nothing with respect to the case of any man after he was committed: He then left the matter entirely to the due course of law; and as to the story of the young lady's *Valentines*, he really knew nothing of it.

Mr. Fox said, it would not be necessary for him to say much on the motion for the Address proposed to be sent to his Majesty. He must, however, make a few observations on the subject of opening letters. When the newspapers stated, that letters of individuals had been opened, and that assertion was not denied in any authentic manner, it became a matter worthy the attention of Government. A letter (whether from a young lady, or any other description of person, was not material) had been opened: He thought it necessary for Government to inquire into the fact; for the principle on which it proceeded, was a serious one indeed, and on that subject it was his duty to deliver his sentiments. Without the express order of the Secretary of State, it was not the right of any person in the Post-office, or any other person whatsoever, by his rank ever so high, or his office ever so important, to open a letter committed to the Post-office; and therefore, if such person had opened a letter, from any suspicion of his own, or had directed a magistrate, for any reason whatever, to open it, he had been guilty of what was expressly declared a crime by the law of the land; and it was the duty of the Secretary of State to inquire into the fact, and to bring such person to punishment, if guilty. *Mr. Fox* said, he had always understood the law to be clear on this point, "That if a person from the Post-office was to open a letter without the express order of the Secretary of State, he was

was liable to suffer punishment as a felon without benefit of clergy. It was necessary, for the general safety of society, to guard against this abuse of power in the strictest manner. He knew the Secretary of State had power by law to give directions for opening letters, but it was a power so nice and delicate in its nature, that it should be used cautiously indeed, when at all used, and never used, except when the immediate safety of the State might evidently depend upon it; at best it was only making use of one evil to avoid a greater; it was making use of a breach of faith to prevent some more important crime against the State: But to make use of it for the purpose of discovering the political opinions of individuals, was insufferable; and it appeared to him in so atrocious a light, that when persons came to him, and stated complaints of that sort, he had always answered them by arguments in private, similar to those which he had just used in public. The imputation was too gross to be applied to any man without demonstrative proof, and therefore he trusted the case was untrue in the present instance: But it was nevertheless the duty of the Secretary of State to inquire.

With respect to the present Address, it was not his intention to oppose it; he objected to it only on the grounds of being too specially and strongly worded, and of pledging the House of Commons to grant extraordinary powers to the Crown, before the emergency that could alone justify a grant of such extraordinary powers, was clearly made out. He admitted, however, that it was a well-known fact, that the enemy had not only professed their intention to make a descent, but had made extensive preparations for that object; and though such a descent was, in his opinion, not to be apprehended, yet it was absolutely necessary to place in the hands of the Crown the due means of defence, in case it should be attempted. Important, notwithstanding, as the object confessedly was, he would not have it effected by what were called voluntary subscriptions, which, in his judgment, were decidedly illegal, and if not absolutely illegal and unconstitutional, at least were against the letter of the law, and in direct contradiction to the spirit of the constitution. These, undoubtedly, were not on that day the topic of debate; because no reference was made to them either in the Message or the Address. They formed a question totally distinct. He must however observe, that if the House were even to promise to direct the application of the sums thus collected, they could not cure the impropriety of the measure. It could not be covered by the Address, which did not even point to such a procedure; and if it was proposed to move for the introduction of a Bill to direct the application

application of the money so raised, such a Bill would only prove, that the levying of money in such a way was as yet unauthorized. It might be proper for that House to promise to support his Majesty, and yet it might be extremely improper for the Secretary of State to write circular letters to the Lords Lieutenants of counties, directing them to apply to the people for contributions. The two measures had no reference whatever to each other. He trusted, therefore, that his Hon. Friend (Mr. Sheridan) who had given notice of a motion on the subject, would refer it to a future day, and consider it with him as a business perfectly distinct from the present Address.

With respect to the observations that had been made by Mr. Honeywood, Mr. Fox confessed that he could not see how the present debate could produce that satisfaction with which the Hon. Member said he should attend the Kent meeting: For the House had expressed no opinion upon the legality or illegality of raising subscriptions for the support of Government without the previous consent of Parliament, and that question remained exactly in the same situation in which it stood antecedent to the delivery of the Message. That a discussion should take place upon that subject was his ardent desire; for he had no difficulty in saying, that the measure, if carried into execution, would tend to weaken the privileges of Parliament, and consequently to shake the fundamental principles of the constitution. There was one objection which he felt and wished to state; it was to the insertion of the words "just and necessary war," which seemed to have been introduced into the Address for the sole purpose of preventing that unanimity with which it might otherwise have been carried; for certainly those who had been formerly of opinion that the war was neither just nor necessary, had neither experienced nor manifested the smallest change of that opinion; but as the words which he had pointed out as objectionable did not pledge him to any specific condition, he considered them rather as words of form than of meaning, and would not oppose the Address.

Mr. Sheridan adverted to the particular situation in which he was placed by the Address, and after what had fallen from his Right Hon. Friend, he was desirous of being distinctly understood. He said, he should not hold himself bound to alter any part of the determination which he had formed upon the subject, unless ministers should declare that they had adopted a new plan, and entirely abandoned that against the illegality of which he had protested. There were two points before the House that were distinct and separate. There was no
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thing in the Message from the King, or in the Address moved in answer to it, that had any reference whatever to the papers upon the table, with regard to the communication of the Secretary of State to the Lords Lieutenants of the counties; and therefore he should agree to it. He would abstain too from making the motion of which he had given notice upon that topic, if he found that ministers had thought better on the subject of subscriptions, and had taken this public, fair, and constitutional mode of calling for the aid of the country to the executive power. But if he found that they had not abandoned that plan, and that this measure was not to be understood as a proof that they retracted in respect to these subscriptions, he should be under the necessity of making the motion of which he had given notice.

Mr. Honeywood said, that he should not mention the subscriptions before this Address to his Majesty at all, for he considered them as being all done away by the present measure.

The Chancellor of the Exchequer said, he felt great satisfaction from some things he had already heard in the course of the conversation that had taken place. He should feel still greater satisfaction, if an Address, which declared the sense of that House under all the circumstances of the subject, should pass unanimously; for he could not help, on public ground, seriously lamenting, if there was a dissentient voice in that House, or in the country, on a point so deeply affecting the public welfare; he nevertheless could not think of endeavouring to purchase an unanimous vote even on such a subject, by any unfair or erroneous statement. It was perfectly true, that the Message from the Throne had no reference whatever to the proposed subscription. It was true likewise, that the Address before that House had no reference to that measure. He conceived that neither of them ought to have any reference to that measure; but he conceived so on grounds directly opposite to those stated by the Hon. Gentleman who had preceded him in the conversation. It was not to be understood, from the silence of the Message, or the Address, that the measure of the subscriptions was abandoned by ministers as a step hastily adopted, and prudent to be retracted. The Address was silent on that subject, because it was not necessary it should take notice of it, in order to make that measure perfectly legal and constitutional. That was not the view of the Address with respect to the communication to the Lords Lieutenants of all the counties. They had both a different object, which was to strengthen his Majesty's hands in the prosecution of a just and necessary war, by legal and constitutional means.

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He did not desire to provoke an unnecessary discussion and debate; but when Gentlemen thought proper to bring projects forward in which he could not agree with them, it was absolutely necessary that he should take some notice of them, lest, by his silence, he should be thought to acquiesce in their propositions. In this view of the matter alluded to, he was ready to say, that every individual subscription, on the part of the subject, to strengthen his Majesty's hands by the augmentation of his force, to carry into effect any plan that shall receive the sanction of Parliament, was a measure perfectly constitutional and legal; and when that came to be argued, he believed he should be able to state to the satisfaction of the House, from statute law, from great and respectable legal authority, from a combination of political authority of various descriptions (so various, that he believed even Gentlemen on the other side would not oppose it);—he believed he should be able to state, from the uniform practice that had established itself into a rule upon this subject, that the measure alluded to by the Right Hon. Gentleman was strictly legal and constitutional, unless Gentlemen were prepared to say, that the practice of this should be different from the practice of any former war in which we had ever been engaged.

It was proper for him to state distinctly to the House, what were the measures which he conceived it to be the duty of ministers to submit to Parliament, in order that Parliament, being fully possessed of their intention, might judge of them upon true grounds. They would recollect, that, according to the notice he gave, the estimates had been presented that day with respect to the corps immediately to be embodied; the expence to be incurred on which would be referred to a Committee of Supply. With respect to the other force which might, or might not, be called into service, but was meant to be in readiness in case of immediate necessity, they could not yet be estimated; the plan however in that respect was similar in every point to that which had been adopted in the last war, and it was his intention to follow the same line in all its subsequent gradations; namely, to bring in a Bill providing, that if these troops are to be in actual service, and shall have occasion to march, they shall receive pay, and be subject to military discipline.

The measure for the augmentation of the militia he need not say a word about, because the Bill had passed both Houses. A number of Fencibles were to be kept in towns and counties ready to be called out as emergency should require. Those two measures should be laid before Parliament distinctly and fully;

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fully; and by giving their consent to them, Parliament would only follow precedents and practice established on the most constitutional grounds; if any subscription should enable his Majesty to add to that force, he had no doubt but that the whole of it would be found, on due investigation, to be strictly legal and constitutional. If Gentlemen were prepared, as they said they were, to argue the illegality of some points to which he had alluded, he must say that he was, on his part, ready to argue on the other side, and to maintain the legality. He therefore hoped, that, whatever grounds Gentlemen might have laid down for themselves, there was no ground laid down for the House to come to any conclusion on the illegality of the subscriptions to which he had alluded, or for so singular a position, as it might be, if they were to declare that what was legal in former wars would not be legal in this. It was evident, from what had been said, that the Right Hon. Gentleman (Mr. Fox) and a few others, had some objection to the precise form of the present Address. Some might wish that it did not express the present war to be just and necessary. He felt a desire that this Address should be unanimous; but he should betray the trust which he held, and abandon the duty he owed to his Sovereign, and to the Public, if, for the sake of unanimity, he were to compromise that matter, and consent that the present Address should omit that description of the present war. In every act in which that House had been yet a party, that description had been given to the present war. It was a description which belonged to it, not only as much, but in a degree more, than ever could be applied to any other war in which a nation had any thing to value, or an individual any thing to hold dear. He could not, therefore, consent that these words should be left out. He hoped that those Gentlemen, who sometimes denied that the war was just, and at other times allowed that it was necessary, would think a little of their own consistency. He was confident, however, there could be but one desire with the House; and he hoped there would not be a single negative to this Address.

Mr. Fox said, the Chancellor of the Exchequer had argued on the words *just and necessary*, as if they had been introduced into the Address merely to afford an opportunity for accusing Gentlemen who opposed the war of inconsistency, if they should vote for the Address. His opinion still was, that the war was not necessary; that it had been provoked by the conduct of ministers. But the war having been entered upon, and no alternative left but to expose the country to the attempts of the enemy, or to defend it, he would support the

war,

war, that the interests of the country might suffer as little as possible. The Chancellor of the Exchequer would, Mr. Fox said, be less fond of introducing the justice and necessity of the war upon all occasions, were the minority not so few. When the country was supposed to be in danger, was it just or honest to prevent the minority, however small, from expressing their loyalty and zeal, by the introduction of topics that must create differences of opinion? From what had been said, he felt himself bound, in defence of that consistency which the Chancellor of the Exchequer had thought proper to impeach, to move, by way of amendment, "that the words *just and necessary*" be omitted in the Address. On the illegality of advising his Majesty to solicit voluntary subscriptions, he should observe only at present, that the Right Hon. Gentleman's triumph would be rather more honourable to him, if reserved till the day of discussion; and that if any allusion was meant to former opinions, supposed to have been held by him upon the subject, he could assure the Right Hon. Gentleman, that neither in 1778, nor in 1782, had he maintained the propriety of giving such advice.

Mr. Drake thought that much of the Chancellor of the Exchequer's speech might have been very properly omitted. He complimented Mr. Fox on the candour with which he had professed his willingness to agree to the Address, although words had been introduced into it, of which he could not be supposed to approve. He strongly recommended unanimity upon a subject where, in fact, there was no real diversity of opinion; for, were an invasion to take place, he made no doubt, but as a true-hearted Englishman, Mr. Fox would be one of the foremost in the ranks of those who should oppose them. He had previously rejoiced; he said, in the temper, the harmony, the concurrence, the good humour, the unanimity, the cordiality, and the complacency of the House. Every thing was going on most *pleasantly* and most *officially*. He trusted, that whatever difference might exist relative to the expediency of the war at its commencement, there was not an honest Englishman in the country who did not reprobate the politics of France. It was impossible to express this abhorrence in stronger language than that used by Mr. Grey, who had declared the present Government of France to be so cruel, unjust, and tyrannical, that he would rather live under the rule of Nero or Caligula. He therefore hoped that Gentlemen would act consistently with these declarations, and not be induced by resentment of particular words, or the peevishness of opposition, to persist; he hoped particularly that the Right Hon. Gentleman, with
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his usual magnanimity, would consent to withdraw an amendment, which, without the intervention of certain impressions, he had declared he was not disposed to have made.

Mr. Secretary Dundas wished the respectable Member to recollect, that the irritating language to which he alluded was not unnecessarily used, and might indeed have been spared, if the debate had ended with the speech of the Right Hon. Gentleman who moved the amendment. But afterwards, when another Hon. Gentleman (*Mr. Sheridan*) made it a condition of his vote that ministers should plead guilty to all the charges which he thought proper to bring against them, that they should admit the war to be neither just nor necessary, and suffer the impression to go forth, that they intended to abandon the subscription proposed to the Lords Lieutenants of counties, his Right Hon. Friend's explanation became necessary; and however desirous ministers might be of unanimity, the vote of the Hon. Gentleman, to whom he had just alluded, upon these terms they must always repudiate.

Mr. Drake said, that both the Hon. Gentlemen who opposed the war, in stating that they adhered to their former opinions, had very dexterously avoided saying any thing to occasion a debate on the Address, till the Chancellor of the Exchequer provoked it.

Mr. Sheridan expressed his astonishment that what he said before could have been so palpably misrepresented. He had said that he would not oppose the Address, although he disapproved of calling the war just and necessary. He had also said, that if ministers would declare that they had given up their plan of soliciting subscriptions, he would give up the motion which he intended to make upon the subject. Surely there was no connexion between making or not making that motion, and voting for the Address. After what he had heard, he should think it his duty to make the motion when the papers were printed; and as far as argument and authority could be relied upon, he should prove that the measure was a misdemeanour on the part of ministers, and on the part of all who assisted them in it.

Mr. Secretary Dundas said, he had so understood *Mr. Sheridan* before, and still thought that what he said called for the animadversion made by his Right Hon. Friend.

Mr. Grey said, it was in vain to enter into explanation, when a distinction so clear was overlooked; it had not been his intention to have troubled the House on the present conversation, for he could not call it a regular debate. He was not surprised that the Right Hon. Secretary of State should feel it necessary to say something in defence of the Chancellor

of the Exchequer, who, while he deprecated opposition, never failed to provoke it, when he thought it would be unavailing. After putting that side of the House into such a situation, could he expect that those Gentlemen who had already declared their opinion in the most unequivocal manner, that the present was not a war of necessity, but a war of choice, and that the miseries and waste of treasures with which it was attended, might and could have been avoided; could that Right Hon. Gentleman expect, after such a declaration, so explicit on the part of those Gentlemen, that they would, on the present occasion, subscribe to the words *just* and *necessary* war? on his part he should disclaim, he had already disclaimed, and should continue to disclaim it as just and necessary, not in the least doubting but that he should entertain the same sentiments of it, in and out of the House as long as he existed.

If the Right Hon. Gentleman (the Chancellor of the Exchequer) supposed that those Gentlemen, with whom he had the honour of thinking and acting, would be unanimous in every measure that tended to the internal defence of the country, he would not be disappointed in that expectation; he was prepared to defend the country, not only against an invasion of a foreign enemy, wishing to inculcate their own dangerous principles, which were clearly most subversive of civil society, but he would defend it, at the risk of his life, against the subjects of any government, if it was the best that human wisdom could devise; he did not however think it was candid, or by any means conciliatory, in that Right Hon. Gentleman, on every occasion that presented itself to the discussion of that House, to introduce the words *just* and *necessary* war.

Mr. Grey declared he was much obliged to one Hon. Gentleman (Mr. Drake), who did him the justice to remember his words. He had declared, and he would declare it again, that he would rather live under the most despotic monarchy, nay, even under that of the King of Prussia or the Empress of Russia, than under the present government of France. He was obliged, he would repeat it, to that Gentleman for remembering his words, and quoting him so fairly, as that was a piece of justice he had not always experienced, especially by those who wished to insinuate, that he, and his friends around him, were any way favourably disposed to the government of France; and that it was on that account they reprobated the war. He wished the Right Hon. Gentleman (the Chancellor of the Exchequer) had descended a little from his high and haughty tone of prerogative, and informed the House, in plain, simple,

simple, intelligible language, his real opinion of the legality or illegality of the measure which his Majesty's ministers had thought proper to pursue with respect to those circular letters directed to the Lords Lieutenants of Counties, for the purpose of raising subscriptions. As for himself, he would insist, that to raise money without the authority of Parliament, for any public purpose whatsoever, was *illegal*; and if the Right Hon. Gentleman should insist on the contrary, it would give a deeper wound to the constitution than any that it had yet received even from that Right Hon. Gentleman. He wished to hear this opinion retracted, or maintained by that Right Honourable Gentleman, so that he might not leave the House with any misconception on a point of such high constitutional importance.

The Chancellor of the Exchequer said, if he sat silent, it might be construed into an acquiescence in the sentiments of the Hon. Gentleman who had just sat down. He had been charged with warmth and personalities; he denied that he had intended any personalities whatever. When temptations of that kind presented themselves, he was, as other Gentlemen were, at liberty to judge for himself, whether it was proper to indulge in them or not: But he hoped the House would do him the justice to acknowledge, that even under most goading provocation he had omitted them much more frequently than he indulged in them. If it was conceived that he was personal to any Gentleman, he was sorry for it. As to his warmth, that was directed against the common enemy, of whom he had no scruple to say, he could never speak with temper. The Hon. Gentleman (Mr. Grey) acknowledged that he would much rather live under the government of a Nero, or Caligula, than the present tyranny of France. It was against the encroachments of that very tyranny, the measure which the Address went to approve was directed; and he certainly should feel himself wanting in justice to the Hon. Gentleman to whom he had just alluded, and those Gentlemen who acted with him, if he did not acknowledge that he was perfectly convinced they would be as ready to defend this country against invasion as any other description of Gentlemen in that House. As to the question proposed to him by the Hon. Gentleman (Mr. Grey), he conceived that it could be answered when the separate question on that subject came to be discussed; in the mean time, however, he felt no difficulty in saying, that to propose a voluntary subscription, for the purpose of levying a military force for the defence of the country, to be sanctioned by Parliament, was in his opinion strictly legal.

Sir Richard Hill pressed Mr. Fox to withdraw his amendment, urging the desirableness of unanimity as the ground of his argument.

Mr. Francis said, that, since he had sat in that House, he had never been witness to a more useless waste of words than had been made on the present occasion: That it seemed to him to require little less than the genius of confusion to confound two objects so perfectly distinct as those which were before the House; the one immediately under consideration, the other to follow it on some subsequent day. The first question to be decided was, Whether they should vote an Address of Thanks to the King, to assure his Majesty of their determination to support him in every measure necessary to the defence of this kingdom? "To that (said Mr. Francis) I agree, and as heartily as any man, even among those who are most loud and vehement in their professions, and some of whom, if they contributed at all, would not do it out of their own property, as I must do it out of mine. But, in agreeing, as I do, to the substance of the Address, let me not be compelled, in the same breath, to contradict myself, and to declare that the war is *just and necessary*, which I have repeatedly declared to have been neither just nor necessary. What occasion have you to force us into that useless contradiction? The question of the justice or necessity of the war is not in issue *now*. All the useful purposes of the Address will be answered by simply saying *the present war*, without any qualification one way or the other. The second question is, Whether, without reference to the quality of the war, it be legal and constitutional for the executive power, by its ministers, to solicit and receive pecuniary contributions from the subject, for the purpose of levying and maintaining an armed force, or for any other public purpose, without the grant of Parliament? To that question I say, No; and I shall resist the measure to the utmost of my power. Is there any inconsistency or contradiction in my conduct on those distinct questions? On one side I am willing to assure his Majesty of the support of this House in a Parliamentary way; that is, by Parliamentary grants and supplies. On the other, I say, I will not consent to support the war by applications directly from the Crown to the subject, because I deem it illegal and dangerous to the liberty of the country, which I wish to defend, but which is only worth defending in proportion as it is free. The Right Hon. Gentleman has now favoured us with a definition, which he thinks legalizes the measure, namely, that the application of the money contributed *shall have the sanction of Parliament*. That condition, added now, will not legalize what has been already

done, or attempted to be done, without it. But this is evidently an after-thought of the minister. If the condition, now stated, be necessary to legalize the measure, why was it not so expressed in the Letter of Requisition from the Secretary of State to the Lords Lieutenants? In that letter, you will not find a single word about *the sanction of Parliament*.

"But, Sir, I should be glad to know whether the Right Hon. Gentleman means, in applying for contributions, to use the same language to the country which he does to this House? Does he intend to ask every man, in the first instance, whether he thinks the war *just and necessary*; and, unless he thinks so, not to accept of his assistance in support of it? or does he expect that they, who think the war originally unjust and unnecessary, will support it by extraordinary contributions? Why should he urge these useless, contentious questions any where? The indispensable necessity of defending the kingdom is argument enough to engage every man to concur in the Address. On this day, the minister may command unanimity if he will. He forces us to dissent, when in fact we wish to agree with him."

Mr. M. Robinson declared, that he thought the war just and necessary.

Mr. Buxton was in hopes the motion for the amendment would be withdrawn. He observed, that the war, however necessary he must admit it to be, was at the same time highly burdensome to the people; and he must approve of any plan which tended to impose such part of the expence upon the rich as would be likely to make the remainder more easy to the people. He respected as much as any man the privileges of the House, the privileges of Parliament; but when Parliament was calling upon his constituents for supplies, he was sorry to see it retain one privilege in particular, which, if abolished, would, he was persuaded, prove highly beneficial to the revenue—he meant the privilege of *franking*. This had frequently occurred to him; and if it met the approbation of the House, he would on a future day make a motion on the subject.

Mr. Martin said, he had often wished for such a Bill; he declared himself a friend to every useful and necessary privilege of the House, but would cheerfully support any motion for abolishing the privilege of *franking*. If the privilege were used only for public purposes, he should be for maintaining it as necessary for the general benefit and advantage of the people at large, but he would support such a Bill the more readily, as he knew, or rather it was generally suspected, that

some Members abused that privilege in a very unparliamentary and ungentlemanly manner.

Mr. Martin was called to order; but he desired that his words might be taken down, if he had said any thing improper; in order that he might be correctly understood, he repeated his expressions *verbatim*.

Mr. M. A. Taylor said, that he did not mean to have said any thing on the present subject, if it had not been for what fell from the Hon. Member who spoke last but one. He doubted whether the abolition of the privilege of franking would much increase the revenue. There was a source of revenue, however, which, if the war should continue, he should move to take into consideration; the source he alluded to was the abolition of sinecure places, and the reduction of the salaries and emoluments of those places, from which Gentlemen drew great incomes, without doing much, if any thing, for them. This abolition, besides increasing the revenue, would also have the good effect of diminishing what was justly called secret influence; but which he in bolder language must denominate corruption. He lamented that any words had been inserted in the Address to prevent unanimity; but after what had been said, he felt himself obliged to vote for the amendment.

Mr. Isaac Hawkins Browne defended the words objected to in the Address, as highly necessary, and justified the language held by the Chancellor of the Exchequer upon them.

The amendment was negatived without a division; and the Address voted as originally moved.

VOLUNTEER CORPS.

The Chancellor of the Exchequer moved for leave to bring in a Bill for regulating such Corps as may voluntarily embody themselves for the defence of their respective Towns or Counties. This Bill, he said, was a transcript of that which took place in 1782.

Mr. Sheridan observed, that in that Bill those corps were only subject to military discipline on being called forth, either in case of actual invasion or insurrection: He wished to know if this Bill was intended to contain the same provisions.

The Chancellor of the Exchequer replied, that the conditions of enrolment would be sent to the officers entitled to receive such volunteers, and that they would be further explained in the provisions of the Bill.—Leave was given.

Mr.

Mr. Sheridan gave notice that he should bring forward the motion which he had read in the course of the debate, on Friday the 28th.

Adjourned.

HOUSE OF LORDS.

THURSDAY, *March 27.*

Heard Counsel in continuation on the Appeal in the case of *Aglianby v. Maxwell*.—Adjourned.

HOUSE OF COMMONS.

THURSDAY, *March 27.*

The Chancellor of the Exchequer brought up a Bill for the Encouragement and Discipline of such Men as shall voluntarily enrol themselves for the service of the State upon an Emergency; which was read a first time.

The Chancellor of the Exchequer said, it would be proper that the Bill should be printed, in order that Gentlemen might the better be able to see the tenour of it. He did not apprehend it could require much discussion, for, in the greater part, it was only a transcript of a Bill which passed in 1782: It differed, however, in one particular from the Bill in 1782. By that Bill the Volunteer Corps were only to be subject to military discipline if they marched under arms in case of invasion or actual rebellion. By the present Bill it was provided, that those who should enlist into this corps, should not be bound to wait for invasion, or actual rebellion, but might be called out on the appearance of invasion, or by the Lord Lieutenant of the county, or the Sheriff, to quell any insurrection or disturbance in their own county or the adjacent one, in which case they would be subject to military discipline. He proposed that the Bill should be read a second time, and committed for Monday the 31st. It was ordered to be read a second time, and printed.

The House, in a Committee of the whole House, passed a Resolution for leave to bring in a Bill to indemnify Governors and Lieutenant Governors of the West India Islands who had permitted the Importation and Exportation of Goods in Foreign Bottoms.

The Report of the Committee on Ways and Means was read, and Bills were ordered to be brought in in pursuance of the Resolutions.

Adjourned.

HOUSE

HOUSE OF LORDS.

FRIDAY, *March 28.*

The Royal Assent was given by Commission to thirty-two public and private Bills.

VOLUNTARY SUBSCRIPTIONS.

The Earl of Lauderdale rose, and said he was too apt to intrude on their Lordships, and occupy their time; no man was more conscious of it than he was, but he defied any Noble Lord to accuse him, nor could he accuse himself of doing so, unnecessarily. He had that day to submit to their Lordships' consideration, a few observations on a subject, as important, in his mind, as ever arrested the attention of Parliament. The subject of the motion he meant to bring forward deeply imported the constitution of the country. He lamented, therefore, that it had not fallen into hands as able as the other important motions of the Sessions had fallen into. There were two points which he would particularly contend were illegal and highly unconstitutional, and on which their Lordships always manifested, when called upon, the utmost jealousy. The *first* was, the augmentation of his Majesty's forces, and the levying of money for the use of the executive government, without the previous consent of Parliament. With regard to the one and the other, their real importance must be obvious to their Lordships. In all the various regulations for augmenting his Majesty's forces, and landing foreign troops in this kingdom, our ancestors, his Lordship remarked, had been at all times extremely jealous; nor was either ever suffered without the previous consent of Parliament.

The present extraordinary attempt to extend the power of the Crown, was such as called for the reprobation of every man who valued the constitution, and loved the liberties of his country. Money without the consent of Parliament, was a novelty that could not be borne out by precedent. The Circular Letter to the Lords Lieutenants of the different counties, was a measure anomalous in itself, and apparently intended to keep up that alarm in the country, which was so favourable to the views of Administration. It seemed to be a determined system, that whoever spoke the language of liberty, however much they were the known and avowed friends of the constitution, were to be accused of maintaining French principles; it was fashionable to bestow the most flattering approbation and praise upon all who spoke highly of prerogative, and even gave to it a greater extent than was claimed before, while those who were true friends of the constitution, and endeavoured to preserve it from innovation or decay, were stigmatized in the same degree.

gree. His Lordship observed, that the House should take into its contemplation, the anarchy that prevailed in a neighbouring country : He intreated the House to reflect, that France, for her own internal protection, had raised troops in a similar manner to that recommended in the Circular Letters to the Lords Lieutenants of the various counties ; and what, he asked, was the consequence ? That they were now obliged to have recourse to troops of the third requisition. This he trusted was not an ominous circumstance ; but, at all events, it was a matter that ought to make some impression on their Lordships. He conceived, that, by raising troops in this unconstitutional manner, the Parliament was deprived of an invaluable privilege. How then would the Right Honourable Chancellor of the Exchequer reconcile the measure to his conscience ? He had heard *that* Gentleman, and many Noble Lords had heard him also, harangue on the blessings of our excellent constitution. He who lately resisted even a spirit of amelioration, who would not risk any alteration, even for the purpose of that reformation which he so zealously and warmly recommended, by this late measure, would run the risque of endangering the whole of the constitution.

His Lordship declared himself at a loss to imagine what could have induced ministers not to have consulted Parliament before they had recourse to a measure thus illegal and unconstitutional. Was the exigency so great, or was the Parliament so constituted that it could not be trusted ? Must it relinquish its power, he asked, and resign it to the will of an individual, without the approbation of the people, taken through the medium of their representatives ? If the plan was even legalized, it was yet objectionable as crude and indigested ; there was no one uniformity of sentiment that could even approach perfection. The various plans exhibited no one regular system of defence. A system of defence adopted according to the caprice of each individual, must risk the uniformity of the whole, and could never be of the least advantage to the internal defence of the kingdom. When he and his friends had proposed a reformation in Parliament, such as originated with Mr. Pitt and the Duke of Richmond at the Thatched House, they were vilified as Jacobins and Levellers ; but they could now retort that language, and say, that the heterogeneous plans proposed by his Majesty's ministers, appeared as if they had originated with Danton and his associates, for they were novel in their nature, dangerous in their consequences, and inadequate to any one good purpose ; they partook of all that confusion which had distinguished the proceedings of the requisitions of France. By this measure, ministers, his Lordship said, gave

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the greatest possible triumph to the enemies of the country, as it exposed their weakness, and afforded the people an opportunity of manifesting their opposition to the war, and demonstrating the unpopularity of Administration, which had already been the consequence in more instances than one. It were too much, he said, in the same session, to have to combat doctrines inimical in the extreme to the spirit of the constitution, such as the raising money and forces, and landing foreign troops, without the previous consent of Parliament. His Lordship observed, that, in the last century, Parliament, with respect to any measure at all similar to the present, evinced extreme jealousy, and shewed a strong opposition to any encroachment on its privileges.

Having searched into history, there was nothing like the present measure to be found, except in the very worst of times. The precedents, on the other hand, were many, that shewed the extreme jealousy that Parliament had ever held on the two points, the levying of money, and the keeping up an armed force in the kingdom illegally, and without the consent of Parliament. He then read the opinion of Lord Coke, and referred to the acts upon that head, from the time of Richard III. to the 12th of Charles II. stating the 1st of Richard III. the 10th of Henry VII. and others, to shew that attempts of that sort had been frequently made by the Crown, and as often opposed by the people; and quoted the opinions of several learned judges on the illegality of the measures at present proposed by the Letters to the Lord Lieutenants of the counties. The Act of Charles II. upon which he dwelt for some time, limited the subscription of every Commoner to 200l. and every Peer to 400l. but it was not enforced till after the Act passed, since the time of the Revolution. He read some of Mr. Hargrave's notes on Lord Coke, all of which went directly against benevolences, and private aids of any description, for public purposes, and at the disposal of the executive government. He confirmed his arguments by the Bill of Rights, which expressly stated the illegality of such measures.

He observed, that some Noble Lords were very eager in calling out *Hear him, hear him!* When that sort of notice was taken of any thing said, it was generally supposed that those who did so, had it in their power to found some argument in reply to the person speaking; but he could not imagine that any thing different from what he had inferred, and stated, could be made out from those statutes. So much did he see the illegality of the proceeding, that nothing which ministers could do subsequently to legalize the measure, could make him think they were to be justified in what they had already done.

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He insisted that this measure, and others lately attempted, tended to increase the influence of the Crown, and to diminish the privileges of Parliament and of the People; an influence which had already grown to such extent, that it had been on a former occasion thought necessary, by one of the greatest lawyers of that time, and agreed to by the House of Commons, to come to a resolution, "that the influence of the Crown had increased, was increasing, and ought to be diminished;" and this doctrine was supported upon the reasoning of one of the greatest authorities he could mention, Judge Blackstone. That this influence should be so alarming at that time, was a serious consideration for their Lordships' guidance on the present occasion. War, and the present war in particular, tended to increase the influence of the Crown. The great patronage of the military and naval appointments, and the great number of places and commissions necessary only in time of war, added in no small degree to that influence.

With regard to the communications between ministers and the different counties, who was there that knew or could say there had been no private communications; that there were no instructions given to any Lord Lieutenants, to hold out to those whom they wished to subscribe, that their services would be remembered? And having families, connexions, and various views that might have effect, it could not be said that this was an inconsiderable degree of influence. As to whatever answers came to these ministerial communications, he would therefore say, that they did not contain the real and genuine sentiments of the people, but proceeded from a system of corruption, which, however true, dared not be avowed. Besides, this power of reward existed in all times of war. In the present war it had been conspicuously seen, that ministers held an extraordinary power of punishment for all those who disapproved of their measures. Every one who spoke, wrote, or signified in any way his disapprobation, was branded with the name of Jacobin, Rebel, Traitor, and every term of opprobrium that could be added. He was certainly justified in this remark, when it was notorious and avowed, that newspapers were paid in a new and unusual manner by Government, whose sole purpose seemed to be to vilify, calumniate, and traduce those who were in opposition to Administration; and some of them had gone the length of imprudently insinuating, that there were men of character and consequence in this country, in the pay of France, because those men had offered sentiments which, in his idea at least, were essentially necessary to the well-being and support of the constitution. He saw with regret, upon many late occasions, that great talents were used

in a very improper manner, in his mind, to defend measures hastily and imprudently entered into, that could not, or would not, have been defended, had the same questions been agitated before the circumstances to which they referred, took place.

The next point he would advert to, was that respecting the precedents. There were various ways of raising forces, but there were only four instances that he believed would be even mentioned that night. The first of these would be that of raising troops in the year 1746, when there was an actual rebellion in the country; the next was a subscription set on foot by the city of London in 1759; and lastly, those of 1778 and 1782. He entered into a summary description of the peculiar circumstances of each of these precedents, and said, that in all the cases, there was this material difference from the present, the subscriptions were set on foot voluntarily by the people themselves, who solicited Government to accept their assistance, and not, as in the instance of 1794, applied for in the shape of an official suggestion of a Secretary of State, which was (and he must again and again repeat it) nothing less than levying money for the raising and maintaining an armed force in this country, without the consent of, and unknown to Parliament. He stated this to be quite a new and unheard-of force in Great Britain, which these letters recommended; and begged leave to call their Lordships' attention to that only legal and constitutional force within the kingdom, which had been so often praised, and spoken of in the most respectable terms—the militia. This known, established, and regular force cannot be called out, even in any emergency, without calling Parliament together in 14 days after; and yet, if the measure in question is to be pronounced legal, this new sort of force for internal defence may be called upon whenever it may suit the will or inclination of ministers or the Secretary of State: A force so indefinite in its nature, that nobody knew a name for it; it was one thing in one county, and another in another.

At every different meeting, different opinions were started. In the county of Edinburgh, one Gentleman had come forward, and said, it was their business to support the government and constitution of the country, but not by raising soldiers; The navy had always been the defence of England, and therefore he proposed that they should subscribe for building ships, or manning the navy. His Lordship said, that it must be within the recollection of the House, the enormous sums which had been expended in the erecting of fortifications. Many persons, equally enamoured of this mode of defence might say, that they would subscribe towards fortifying the

the coast ; that Parliament knew nothing about the business ; and that they would reserve to themselves the expenditure of that money in such manner as suited their own inclinations. It would seem that ministers might accept or refuse whatever sort of subscriptions they thought proper, and apply the money in whatever way they pleased ; but in his opinion all plans were illegal that had not the consent of Parliament. The whole subject was in itself extremely simple and plain, and the practice of the House in all Money Bills was an illustration of it ; whilst from regard to the privileges of each House of Parliament, neither branch of the Legislature was allowed to go beyond its proper and ascertained limits. Was it therefore legal that the people should do that individually, which their Representatives in Parliament assembled as a branch of the Legislature could not do ? It was worthy of observation, that the country was taught to believe, that we entered into the present war to protect our allies, and to restrain that spirit of innovation which we were told threatened the peace of Europe. But how was the case altered ? How contrary were our exertions at present to what they were last year ? We did not now levy forces for foreign service. What then must our allies and Europe say, when they see that the country is engaged in encouraging and increasing the militia for her own internal safety ? The state of the war was strangely altered : Ministers, instead of finding the conquest of France an easy task, were actually obliged to act on the defensive ; and France, which they pronounced had no navy, has at this time probably at sea a great and formidable fleet. Whether the necessity for this aid proceeded from the real state that the country was in, or the unsuccessful attempts that we had made, he knew not ; but this measure seemed to proceed mostly from a wish that ministers had to obtain from the people, by agreeing to this subscription, such an approbation of their measures as they could bring to Parliament as the opinion of the people at large ; and in this grasp at popularity, by this rash and unprecedented step, they had entirely forgotten the constitution, and left it out of their sight.

His Lordship next adverted to the reception with which their present plans had met in different parts of the kingdom. In Essex, depending upon their popularity, they conceived that the people would receive them with alacrity ; but Englishmen are more enlightened than Administration imagine ; they doubted the legality of the scheme, and treated it accordingly. In Oxfordshire, where they might have looked for compliance, they experienced no better success ; the proposition was there got rid of by an empty compliment of their confidence in the minister.

minister. At Warwick, the people evinced a proper knowledge of the constitution; and, instead of meeting the business with the expected alacrity, they declared that they would congregate, and with their lives and fortunes, in case of necessity, protect their country in such a manner as the King, Lords, and Commons in Parliament assembled, should approve.

Much had been said last year, in both Houses of Parliament, that there existed in the kingdom a number of *disaffected* people; but ministers had put the people now to the test; and the Secretary of State has proved, by his circular letters, that the people are every-where attached to the constitution; and for its support, and that of the country, they are ready and willing to risk their lives and fortunes. He observed, that the advertisement calling together the people of Surry, held forth such hints and insinuations, that they could be considered as little short of a menace to all who did not agree to the purpose of the meeting; since it desired that all those who wished to shew their love and regard for the constitution and the country should assemble; implying, of course, that such as did not, would be considered as marked men, not friendly to either. This was an unfair and uncandid artifice, he insisted, and by no means a fit method, to collect the free sentiments of the people; but the resolutions passed at that meeting, while they shewed the good sense of the persons assembled, and their real love for the constitution, gave no cause for triumph to his Majesty's ministers, who must perceive their boasted popularity on the wane. His Lordship next adverted to the shire of Berwick, north the Tweed. There, he said, the people were supposed to have the most alarming apprehensions from what constitutes a *marked man*. The late prosecutions in that country made them, it was supposed, capable of any impression. What, he asked, was the proceeding there? He had seen a letter from the sheriff of Berwickshire, stating, that the freeholders came forward, and agreed that the county should raise two troops of cavalry, to consist of fifty men each, and that they were to be called upon for eight months cess for their support. But the meeting thought they had no right to tax those who were absent; and towards carrying their resolutions into effect, they lamented that an Act of Parliament was necessary to enforce the tax, and of course the scheme had fallen to the ground. A paper for subscriptions, with the resolution of the meeting, had been circulated, which was left at the houses of the Noblemen and Gentlemen of the county. One of these, he said, was left at his house. What, his Lordship asked, must be the first impression that he felt on its perusal? Certainly, that if he did not subscribe, he must become a
marked

marked man in the county, and meet the calumny of being considered as a man destitute of loyalty; a Jacobin, and a Leveller. Thus was any person liable to be branded with every opprobrium that malice could dictate, if he did not, to avert the stigma, consent to sacrifice the constitution. In short, it was nothing but a *forced loan*; money extorted from the people by the risk that all those who refused it must run of being reproached with every calumny that malice could suggest. He recapitulated the magnitude of the question, which involved two most important points: First, the levying of money from the people; and next, the keeping an armed force in the country without the consent and sanction of Parliament. He advised ministers to consider that what they had done rashly they ought to revise coolly, and not obstinately refuse that redress to the country which their own inattention and blunders called for. He advised them, if by that same obstinacy they meant to carry on the war with the melancholy prospect then before them, not to depend upon this as a suitable resource or expedient for that purpose. They might, from an acquiescence in this subscription, derive some apparent popularity to their conduct: But let the fate of France be before their eyes; let them recollect that the patriotic gifts of that country, which they had esteemed as a resource for carrying on the war, soon produced a forced loan. He concluded with moving, "That it is a dangerous and unconstitutional measure, for the people of this country to grant to the executive government any private aid, benevolence, or subscription, for public purposes, without the consent of Parliament."

Lord Derby seconded the motion.

Lord Hawkebury set out with avowing, that to take money from the subject by the prerogative of the Crown, without the authority or the consent of Parliament, was clearly illegal and unconstitutional. After that general position, he must, he said, beg leave to call the attention of their Lordships to the particular distinction between forced contributions and voluntary gifts of the subject. All the latter were legal and constitutional, whereas the former, being compulsory, are clearly otherwise. His Lordship entirely differed with the Noble Earl in opinion, with respect to the conduct which, on this occasion, had been pursued by his Majesty's ministers; so much so, indeed, that he thought they had acted in a manner perfectly legal, constitutional, and exactly conformable to all precedents. For what had they done? They found the situation of the country was such as to require some effectual exertions and support from the people; in consequence, several plans had suggested themselves, and on these they had communicated

communicated with the Lords Lieutenants of the counties; and who, or what set of men, could more naturally suggest themselves as likely to know what would be the best or most probable mode to be approved of by the different parts of the kingdom? These persons had been applied to also to take the sense of the Gentry, &c. of their various districts. But then, it was said, ministers should first have come to Parliament. With what? Could they come to that House or the other with a plan, in order to adjust and mature which they were desirous of advice from those able to suggest what was practicable, and govern themselves by such advice to give it a form and shape fit for the revision and consideration of Parliament, and by which advice they intended to regulate it? Nothing could be more absurd. Every species of information that could be obtained had been collected, and ministers evidently came forward to Parliament as soon as it was in their power. The intimation, however, which was in that letter, that general subscriptions might be agreeable, had been deemed extortion, and compared to the ancient benevolences; nothing could be more opposite; when those benevolences were levied, every man was forced to contribute, and imprisoned if he did not comply; whereas by this subscription no compulsion whatsoever was held out, it was proposed to be entirely voluntary, and every individual was left to use his pleasure.

His Lordship considered the subject under three heads—the legality of the practice—whether it was constitutional or not—and the precedents. He stated and reasoned upon the various statutes that had passed on the subject from the first of Richard the Third down to the twelfth of Charles the Second. He defined the statute of Richard the Third to be an act against benevolences, which had been extorted from the subject during the civil wars, occasioned by the disputes between the Houses of York and Lancaster, when various courts, invested with arbitrary powers, were instituted, and men were thrown into prison to force them to contribute. Such benevolences, therefore, certainly he agreed, with the great legal characters that had been quoted, were illegal. But if the subject gave money without compulsion, he did not act against the spirit of the constitution; neither did it require the approbation of Parliament to legalize the measure. With respect to the precedent of the 12th of Charles II., he explained that the King did not come to the Throne till twelve years after he had a right to reign. On his accession, he was in great want of money, and the Act was passed to meet the emergency, and furnish a present supply as well for the public purposes of Government, as for the private convenience of the King. His Lordship

Lordship stated the particular powers which that statute gave for enforcing the subscription, by process issued from the Exchequer. His Lordship referred to the Petition of Right, which was, he said, drawn by Sir Edward Coke and Serjeant Glanville. Sir Edward Coke, who best knew what he meant, pleaded a cause at the bar of that House upon it, and never urged such an argument as had that day been contended by the Noble Earl to be a fair inference from the Petition of Right. The constitutional ground he maintained to be clear; when subscriptions were compulsory they were unconstitutional; and when voluntary they were constitutional. He read the words of the Petition of Right, and of Sir Edward Coke, on the subject. The question of levying money by compulsion and authority, had been argued many times, but these were questions which did not by any means bear on the subject of debate.

His Lordship referred to the different precedents in 1745-6, 1759, 1778, and 1784. In 1759, the city of London came forward with a subscription. The Earl of Chatham, then Secretary of State, made no objection, but in bright and animated language approved the measure; and the legality of the proceeding was never once questioned. The same expedient was resorted to in 1778; and it must also be recollected that the precedent of 1782 came still more close as to the manner of proceeding. Lord Shelburne, at that time Secretary of State, sent a circular letter on the subject to every mayor and magistrate of every corporation and large town in the kingdom (an extract from which his Lordship read). It stated, that the neglect or inattention of former administrations had left the kingdom in so defenceless a state, and our enemies were so powerful, that some particular exertions were absolutely necessary; it therefore recommended the taking opportunities to teach the people the use of arms, that they might be ready to give their assistance in case of necessity. This was surely a precedent directly in point; for the idea was ridiculous to suppose a right to raise the men, without suggesting the means of supplying them; nor could such a distinction be taken, unless they meant to rely on the absurd and beggarly distinction of the Judges, on the question of ship-money, in the reign of Charles the First, when they gave it as their opinion that it was illegal to accept money, but perfectly legal to accept ships. This his Lordship said was on the face of it a silly quibble, as the ships could not be manned without money. Whenever the measure of raising troops by subscription was adopted, it had always been taken advantage of, and made a ground of clamour. He was not therefore

surprised at the violent speech of the Noble Earl on the subject. The measure was not a new one; history shewed that there were repeated examples of the like. It had been argued, that if the subscriptions were legal, Parliament was rendered useless; because, if the executive power could, by this authority, raise five hundred pounds, it might, by the same authority, raise *five millions*. Extreme cases, when used as an argument, are absurd, as they prove nothing. As well might they say, that his Majesty might raise money enough to pay the national debt. Was it to be supposed, when the power of subscribing was in the people, that they would give money to be used to their prejudice? As to hints from Government, he disclaimed all such; the letters only stated, after recommending the plan, that subscriptions might be desirable. What was the regular mode of proceeding in all such cases as the present? When ministers had adopted any plan, they came to Parliament, and then, and then only, could Parliament give it their sanction; for not before could it be said to be complete. In the present instance, however, ministers had shewn a degree of anxiety to come forward, for the letter itself was only dated the 14th of this month; and, before the 27th, they had not only put copies of the papers upon the table, but he understood that they had actually brought a Bill in upon them in the other House of Parliament. He could not, therefore, see any ground for throwing any blame upon them; and, as the motion made by the Noble Lord rather went upon the investigation of an abstract question, which he considered as totally unnecessary and unfit for discussion in the present moment, he would move the *previous question* upon it.

The Earl of Macclesfield declared, that he could not, from the information which he had received from Oxfordshire, coincide with the assertion made by the Noble Lord with respect to that county. Gentlemen there were as willing to contribute as in any county: They waited only for the sanction of Parliament.

The Earl of Lauderdale said, he might possibly have been misled with respect to what had passed at the meeting in Oxfordshire; but he had understood it very differently from the account given by the Noble Earl, and his information came from very respectable authority.

The Earl of Warwick said, he rose to set the Noble Earl right respecting the Warwick Meeting, which was held at the St. Alban's Tavern. For want of a better President, his Lordship said, that he had himself been called to the chair. The Gentlemen present were but few; in all about sixteen. It was resolved to subscribe, and to conform, to whatever King's
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Lords, and Commons, should think proper. A further Meeting was ordered to be called in the County, and it was the general wish to support ministers in the prosecution of the war. His Lordship said, that he did not conceive it proper that any man should throw obstacles in the way of a measure calculated to promote the welfare of the kingdom. For his own part, he would act as a friend to the Constitution, and a friend to Government.

The Earl of Derby said, he rarely trespassed on the House, and that it was always with great diffidence and pain to himself that he troubled the House at all. He meant to be short, and from the able and eloquent speech of his Noble Friend who made the motion, he should be still more short than otherwise he would have been. His first object would be to take notice of what had fallen from the Noble Earl near him (*Lord Macclesfield*). He gave the Noble Earl full credit for the disinterestedness of his motives, and hoped the Noble Earl would give him the same credit when he assured the House, that he should be as ready as any man to strengthen the hands of ministers when real danger pressed. He had said so the other day in a thin House, and was willing to repeat it in a fuller. What had fallen from another Noble Earl stood upon similar principles; he had declared that the Gentlemen of Warwickshire were ready to do every thing that King, Lords, and Commons, thought right. This completely answered all that he desired. He, therefore, approved much of the proceedings in the county of Warwick, because he considered the sanction of Parliament to be the *sine qua non*. As to the distinction between voluntary subscription and compulsion, which another Noble Lord had dwelt so much upon, he would ask, if there was not more than one sort of compulsion? Was there no compulsion but that of prisons, fetters, chains, and whips? Undoubtedly there was the compulsion of apprehension felt by men of timid minds. Might not a man, from many reasons that could not be called compulsion, do a thing he conceived not to be strictly right, rather than expose himself to reproaches, however unmerited, that, from the temper of the times, he was liable to, if he did not agree to it? This he knew as a fact, that persons had subscribed who disapproved entirely of the measure, and had told him they did it merely because they foresaw the manner in which they would be misrepresented if they did not. This might be called compulsion on the mind; and to any feeling mind was as great a compulsion as any that could be imposed. He considered this *requisition* (the only name it could get), as perfectly against all the statutes that had been quoted. As to the

word "desirable," it was enough that those who did not acquiesce were to be considered as marked men. Another recommendation of this mode, was its uselessness for the defence of the country: The Public were not uniform in their opinions: One county was for a regiment of fencibles, another for a company, a third for cavalry; and in this disjointed and confused way was it possible that such forces could ever be brought to act properly together, upon any emergency, like a regular disciplined militia? With regard to the appropriation of the sums subscribed, the counties had no information; it was indeed stated, that they were to be under the controul of a Committee; but what Committee nobody knew. The precedents that had been brought forward in support of the measure did not at all apply. He mentioned two troops that had been raised in Liverpool in 1782 without any expence whatever. He would not allow the justness of the comparison between the present measure and that of 1782. He stated the opinion of Earl Mansfield on the case of 1778, and likewise reminded the House how it was answered by Earl Camden. He declared he admired Lord Mansfield, and regretted his loss; but he did not always approve of his opinions. He opposed the war, because he thought it unjust and unnecessary, and likely to prove dangerous in its consequences to the constitution and liberties of the country; but he was by no means unwilling to give ministers support when they merited it. The present war was said to be popular; popular opinion was not always correct; and he owned he had no great faith in majorities, because majorities were not always in the right: He, for one, had long been in a majority that he would repent all his life-time; it was for carrying on the American war: He saw his error amongst the first who did so, and changed his opinion and his conduct; and he saw that majority dwindle into a minority, which proved that he had been right in quitting the majority. Ministers must be convinced that, in their hurry, which was the worst way of doing any thing, they had done wrong; and as it was never too late to do well, they should acknowledge their error, and make amends for it by their conduct. Now the opinion of the country was pretty evident, as the subscriptions were not to be touched at all, till it was known whether Parliament approved of them or not.

The Marquis Townshend objected to the motion of the Noble Earl; he declared, he saw nothing reprehensible in the conduct of ministers, in respect to the subject of discussion; the measure had arisen out of the circumstances of the case. The Marquis said, he could speak for the county of Norfolk.

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He affirmed, that in that county, of which he had the honour of being Lord Lieutenant, the spirit of subscribing, in order to raise a force for the defence of the country, had not been produced by the solicitations of Government, but had first shewn itself among the people themselves, who were eager to offer their services, being alarmed for the existence of their King, their constitution, their religion, and their property, by the proceedings of the democrats in Britain, who, in corresponding societies, were taking measures to introduce all the enormities which were raging in a neighbouring nation. He said, the use of employing men who knew the political prejudices of their neighbours, and could tell who were dangerous and who were not, was obvious. That there were persons in this kingdom who corresponded with the French, and were desirous of introducing their system and their principles among us, was well known to Government, and tolerably well known to the Public in general. Care, therefore, should be taken to repel the machinations of the latter, and he hoped a proper force would be established at home, to be composed of persons well affected to the constitution, and headed by Gentlemen of property. It would also be particularly advantageous that these corps should consist of the middle classes, who must be well acquainted with those in their neighbourhood who might be suspected of disaffection to the constitution, and who, in case of any commotion in manufacturing towns, such as Norwich, might be enabled immediately to fix on such persons as would be most likely to promote it. This was an advantage which regular troops could not possess; they could not distinguish between the loyal and disloyal part of the community. The measure of the present time had been in agitation in 1782. To prove this, the Marquis read an extract from the speech of Mr. Fox, when Secretary of State, upon the subject, in which Mr. Fox emphatically asked, What danger there could be in arming the people of England? He spoke respectfully of Mr. Fox, but could not help saying, that surely if the arguments he had read were allowed to be good in 1782, they should be equally good at this time. He urged the necessity of employing the regular troops abroad. He said, he knew not the intended operations of the campaign on the continent; but if France should prevail, and get the better of Holland, where would be the security of that shore opposite to it, or even the capital itself? It was certainly better, therefore, to enable Government to send the regular troops on foreign service, and adopt such a plan as was proposed, which could not injure the recruiting service by interfering with levy-money, and the immense bounties given for substitutes.

The Earl of Derby denied that any money had been expended by the subjects in consequence of the measure of 1782. He was not willing to cope with the Noble Marquis on military subjects, but the cases he had stated of the Liverpool troops were instances to prove his assertion. With regard to the extract from the Parliamentary Register, read by the Noble Marquis, he said, his Right Hon. Friend never sent his speeches to the Reporters. He heartily wished, for the benefit of the country, that he did, as in that case his powerful arguments, and dazzling flashes of eloquence, would be preserved and admired for ever. As the case stood, such publications, though in some instances pretty correct, were not to be relied on as good authorities. The Earl observed, that as Government knew of persons who corresponded with the French, they were highly culpable in not bringing them to justice. He condemned the principle of arming one description of men against another, because private animosity might avail itself of that pretext to take vengeance on the King's best subjects.

The Earl of Caernarvon said, that the matter had been so ably discussed, that he should not have troubled their Lordships, but for some observations which had fallen from the Noble Earl (Derby) who had just spoken, and from some other Noble Lords, which he thought ought not to pass unobserved. He said, that there was no rule of constitutional law which he held more sacred, than that the Crown cannot, by any prerogative, levy money without the consent of Parliament. There is no practice that he would more jealously watch than one which should appear substantially to derogate from, or to evade that protection, which the intervention of Parliament gives to the purse of the subject; and to give this jealousy its fullest scope, he was willing to consider as illegal all that may be proved dangerous to the security of the purse of the subject, from the influence as well as force of power. But when he admitted this to its fullest extent, he was by no means ready to admit that the consent of Parliament (though it is the sole organ by which the national voice can be heard, the sole channel by which the whole nation, or even a single individual, can be *compelled* to contribute to the public exigencies) is necessary to enable any individual to dispose of his own money in any way he pleases, if the object to be attained by it is a legal object. He agreed with the Noble Lord (Hawkebury) that the true test of the legality of any application of money by private contribution, must depend upon the legality of the object to which it is applied. If it is illegal and dangerous to give money, or, what is exactly the same, money's worth, to the Crown for public uses, there is not a day
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passes which does not witness some such illegal and dangerous practice; and the Noble Earl who moved this discussion has remained the patient and silent spectator. There is no law, nor principle of law, nor declaration of Parliament, that impeaches in the smallest degree this right which every man has over his own purse: No sentence in any record, from Magna Charta, through the Statute Book, down to the Declaration of Rights, touches this right of property. Several Acts of Edward the First protect the subject from being *compelled* to pay aids without the assent of Parliament. The Petition of Right, which was calculated in that clause for the purpose of obviating all inconveniences of forced loans and benevolences, says, in clear and unequivocal terms, "that no man shall be *compelled* to yield any gift, loan, or benevolence, without common consent of Parliament." If the patriots at that time, under the impression of the evil which recent experience had pointed out, and earnest to apply an effectual remedy to the mischief, had thought a real benevolence, or a free gift of any kind to the Crown, dangerous, they could easily have omitted the word *compelled*, and said, no man shall yield any gift, &c. without consent of Parliament. The Declaration of Rights, after a second experience of direct, compulsory application, to the subject by the hand of power, without the intervention of Parliament, in applying the remedy, confines itself to words of the same import with the former, and asserts, "that levying money for the use of the Crown, *by pretence of prerogative*, is illegal." This is the uniform import of all the statutes, and all the declarations. Let us examine the deliberate opinion of great lawyers upon the subject since those declarations. Mr. Justice Blackstone, speaking of the sacred and inviolable right of property, says, "that no subject of England can be *constrained* to pay any aids, or taxes, even for the defence of the realm, or support of government, but such as are imposed by his *own consent*, or that of his Representatives in Parliament." He states here two modes by which he may bind himself to pay toward the public exigencies, his own personal consent, or that of his representative; he seems not to have imagined it was possible for any man to doubt, whether he could apply his own money to any legal object. But Lord Balmarino's trial furnishes us with another high legal opinion, given on a solemn occasion, with a full knowledge that the contrary doctrine had been studiously circulated to discourage the spirited exertions of those times. Lord Hardwicke presiding at that trial says, "that men of all ranks and orders crowded in with liberal subscriptions of their own motion beyond the example of former times, and un-compelled by law, and yet in the most legal

legal and warrantable manner, notwithstanding what has been ignorantly and presumptuously suggested to the contrary." These are the opinions of men of the most acknowledged and most conspicuous legal talents, and of the most unreplicated characters; and there is no single law or declaration to the contrary. The Act of the 13th of Charles II, which is the sole ground upon which the Noble Mover has made a plausible argument, has received its fair answer from a Noble Lord (Hawkesbury). The Noble Earl (Derby) has totally mistaken both the inference the Noble Mover deduced from that Act, and the observation made by the Noble Lord in answer. The Noble Mover stated, that the Act of the 13th of Charles II, by giving an occasional legality to the private voluntary subscription of certain sums of money, for the immediate use of Charles II, on his return to his throne, and by limiting the operation of that law to 200l. from any commoner, and 400l. from any peer, and by a clause rebrobing the future practice, as he says, of subscriptions, did clearly and explicitly give a Parliamentary condemnation of private aids to the Crown, and marked that they were illegal without the consent of Parliament. This was the inference from this statement of the Act by the Noble Mover; and it received its fair answer from the Noble Lord, which has been misunderstood. That Act professed to be an Act of Parliamentary supply, and took these private contributions as its basis, and gave to private gifts that *certain* and full effect, which, without Parliamentary concurrence, it could not have, namely, the force of a law, by which the sum voluntarily subscribed could (*non obstante* all the statutes before cited) be contrained, and recovered by regular process of law, against the resistance of the subscriber, and thus converted free and precarious gifts into forced benevolences, or, in fact, into legal taxes; and the clause alluded to had no intention to discredit free gifts, but was a salvo against the danger of a Parliamentary practice, of converting free gifts into regular taxes, contrary to the spirit of the former laws and declarations, which, in their approved jealousy, had declared, that no man should be *compelled* to pay free gifts, &c.; and the Act of the 13th of Charles II, therefore, left free gifts and benevolences in future upon the same footing as if that Act had not passed. This statement of the Act, which is the true one, certainly cuts to the root that inference, from which the Noble Mover had raised the sole argument which could give a moment's colour to his doctrine. The Noble Earl left his motion with an observation on its great importance, that it remained with us to decide, whether in future the Crown could, or could not, levy money without consent of

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of Parliament? And the Noble Earl (Derby) says, that those who support the previous question must admit the truth of the position contained in the motion, which they dare not deny, and do not wish to assert. There is no foundation for either of these assertions; for even if that question was intended by the Noble Mover, he has not brought it forward by the words of his motion, and if he had, it would not have met the least opposition of sentiment, but it would not have applied to the circumstances which give rise to the debate, any more than his present real motion does. And I return my thanks to the Noble Lord who moved the previous question, because he has removed an inapplicable motion from before us, which no event, or circumstance, calls for, and which I do not think deserving the attention of the House, as being an abstract proposition, arising from no applicable circumstance. In following the Noble Earl thus far into the general subject, I followed his argument, though it has nothing to do with the particular case; for he has not brought within the scope of Parliamentary jealousy, much less within the imputed breach of any constitutional law, the circumstances which have led him to awaken your attention to the papers on your table. To meet the case, the substance of his motion ought to be, that it is illegal and dangerous, without the *previous* consent of Parliament (which is of late become a fashionable epithet), for the King's ministers to *communicate* a variety of undecided plans, which have occurred for the internal defence of the country, to the Gentlemen of the respective Counties, through the medium of the Lord Lieutenants, and to suggest that a voluntary subscription may be a necessary and useful mode of giving effect to such levies, at the discretion of Committees: This must be the substance, or it will fail of any application to the supposed occasion, arising from any thing in the papers on your table. I can feel no difficulty in this case (if I entertained any on the extent of any general proposition, which, as far as I am able at this moment to judge, I do not) to say, that it is not only a legal, but a wise and prudent measure, and that without some such equivalent measure, no business whatever could be fashioned, arranged, and forwarded for Parliamentary deliberation and decision. It is the necessary and invariable practice, in the two great branches of Parliamentary duty, the levies of men and of money; but, by the doctrine laid down, it would be dangerous and illegal in a minister to discuss or negotiate the terms of a loan before a Parliamentary approbation of those terms, and grant of the money; it would be illegal to seek by various suggestions that information which is necessary previous to a Parliamentary

statement of Ways and Means. The Noble Lord has laid down certain axioms, from whence he gets rapidly to his conclusion; but thinks himself dispensed with from proving the grounds of what he deems axioms. He asserts, that it is unconstitutional for the King to solicit money from the subject, and from thence, as a political *datum*, he draws his conclusion that the papers on the table are illegal; but I have not been able to collect clearly, whether he asserts that it is illegal in the subject to *give*, and illegal in the Crown to *receive*, an aid, or only illegal to hint that it would be acceptable; for he admits that his instances do not go up to those points, except the slender inference he has strained from the 13th of Charles II. And he seems to say, that it is not necessary to go the length of those positions to reach the present case; but if the Noble Lord hesitates to go the length of these positions, he must leave the cited instances to prove, that it is legal to give, and legal to receive, what in his opinion is not legal to ask; which narrows the subject to a slender point, upon which all his dexterity would not enable him to maintain a footing. I do not know whether the Noble Lord means to deny the legality of all those negotiations between the King's ministers and individuals to raise regiments, which has been in constant practice by all administrations in every war, by which great bodies of men have been raised at less expence to the Public than by other means. If the Noble Earl denies the legality of these levies, the constant, unproved practice, under the eye of Parliament (no law existing against it), will sufficiently prove and establish the legality of raising regiments by individuals at their expence, which Parliament, in its justice, could not compel, but may sanction and approve, when the treaty between ministers and individuals is concluded, if the nature of the case requires that sanction. If this practice is legal, and not dangerous, and it is (beyond all doubt) the constant, unapproached practice, my imagination is at a loss to suggest to itself the shadow of a difference between this practice and that now complained of; by which ministers discuss the subject of a levy, not indeed with a few individuals, but with the Gentlemen of every county, who are disposed, at their own expence, to raise men, through the medium of the Lord Lieutenants of their respective counties. Both these negotiations are equally between the King's ministers and private individuals, and have for their basis that the individuals shall find money voluntarily, without imposition by Parliament, for the levy of such troops as the King may legally have for the public exigency. If I could raise my jealousy of this transaction, or see any danger from the practice, or thought

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the words of any law doubtful on the subject, all this doubt and hesitation would vanish, before the sanction given to the exact practice in 1782. The Noble Earl (Derby) strongly asserts, that this instance does not apply; that not the least hint of the expectation, or wish, to raise money, can be traced in the transaction of that period. I am ready to argue that point in any way the Noble Earl pleases, even with the admission that no money was required, though I will presently prove the contrary. My Lords, I seriously lament that the Noble Marquis who was Secretary of State at that period is not now in his place; he would much more ably, and with greater effect than I can do, detail to your Lordships the strong and cogent reasons that made him think that measure justifiable; he would have concurred with me, but with greater weight, in supporting the legality of the similar measure of this day; he was then in office, and did not act in so important a matter without the fullest deliberation; and he would have supported his own measure, with his usual eloquence, against the attacks now made upon it by the doctrine laid down by the present motion. The Noble Earl, though he denies that there is a requisition of money in the letter circulated to the great towns in 1782, admits a requisition for an armed force without the consent of Parliament, or, if the Noble Lord likes the word better, a proposition for an armed force. Such proposition is as illegal, according to the doctrine now laid down, as a suggestion towards a contribution. In truth, it is more so; for the only argument used to prove a subscription to be illegal is, that such subscription might be used to raise troops. It is the jealousy of raising troops without the intervention of Parliament, that recoils by the argument on the free disposal of private property, and is used to impeach the legality of a subscription. The demand of troops without the intervention of Parliament, confessed by the Noble Earl to have been the object of the measure of 1782, equally trenches on the doctrine laid down by the Noble Mover, as the most explicit solicitation of money could have done. But, my Lords, can any man seriously assert, that the plan proposing to the great towns "to furnish one or two battalions each," for those are the words, and stating clearly and distinctly what part of the expence Government will supply, does not as clearly and distinctly propose to the great towns, to defray the remainder at their own expence? Are one or two battalions to be raised without money? Does the experience of any time authorize that expectation? Does the circular letter alluded to propose that Government should pay the levy? No.—The towns are to furnish the men; and the 8th clause proposes,

poses, what never before or since has ever been proposed to any individuals raising regiments, that they should pay the arms, accoutrements, and ammunition. It is true that the clause says, that Government will furnish those necessary articles, *if required*; but this necessarily implies a pretty strong hint, that Government hoped and expected they would be at that expence, as well as of the levy, which is no part of the plan Government proposes to furnish, even if required. In the 16th clause Government says, that the officers and men shall receive the same pay as other regiments of foot from the time they march out of their own town; the pay of the men, therefore, or such satisfaction as the great towns can agree with the men to receive for their loss of time, is to be defrayed by the towns until the troops quit the towns. The Noble Earl cannot seriously mean, that if the word *money* is avoided, the act, otherwise illegal, would become legal, which obviously requires money's worth, or the expenditure of money. The Noble Earl says, that to his knowledge some persons, in consequence of that letter, associated themselves without being paid, and did not expect money. I doubt not the fact; but that does not prove that others did expect it, and were actually paid by subscriptions: And, as I understand, the great towns in their answers to the Noble Marquis said, in many instances, that they had raised a subscription to carry the proposed plan in execution, and, in many instances, that they should raise money for that purpose. Certainly if this is true, which I have not the means to prove, though I firmly credit it, the great towns understood the proposition as every man who reads it must do; but if they were under a mistake, and the Noble Lord had so obscurely worded his letter as to have produced this error, which, according to the doctrine of to-day, made the whole difference between the legality or illegality of the measure, did the Noble Marquis, if he thought it illegal, take the earliest opportunity to exculpate himself from a supposition which tended to impute to him an offence against the constitution? Did he inform them that they had mistaken him? That he desired no subscription? That he asked of them nothing but what could be done without money? That it did not require money to furnish battalions of men, arms, accoutrements, and ammunition? If he did not make this answer, he acquiesced in their conception of his proposition; if he did, I leave your Lordships to judge what opinion the great towns must have had of the faculties of such a minister. I have therefore no doubt, that the measure adopted by Government is strictly constitutional, safe, and consonant to practice; and I concur with the previous question, because the motion

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is not necessary to be discussed, nor applicable to any existing case.

The Earl of Hardwicke was desirous of troubling their Lordships with a few words in consequence of finding himself in a different situation from many of those who in their official capacity had received the Letters of the Secretary of State. Before the receipt of those letters, he understood that it was the opinion of ministers, whose indispensable duty it is to watch over the interests and safety of the country, that further means of defence and security should be immediately provided. Under these circumstances, he thought it his duty to attend the Assizes of the county of Cambridge, for the purpose of stating to the Grand Jury the different plans that had been suggested; and he had the satisfaction to find that the Gentlemen who were present upon that occasion, were unanimously convinced of the expediency of increasing the means of defence, according to the situation and circumstances of the county. They agreed also in the propriety of entering into a subscription for promoting that object, for it was evident that of the Gentlemen who might undertake the command of the new levies, whether troops of fencible cavalry, or volunteer companies, to be added to the militia, very few would be able to support the expence of paying the bounties that would be necessary, and of defraying other expences that might arise, for which no allowances are made by the Public. The necessity therefore of a subscription, was so clear and obvious, that Lord Hardwicke expressed himself surprised at the idea of a subscription being suggested by Government, since it would naturally have been adopted in every part of the country, as the only method of promoting those objects which are equally interesting to all. But, though he conceived the suggestion to be perfectly unnecessary, he could by no means think it illegal; since it could be considered as nothing more than an invitation, in the same manner as the letter of the Earl of Shelburne to the different towns in the year 1782. He thought it impossible to distinguish between the two cases, and could not help regretting the absence of the Noble Lord, the author of those letters on the present occasion. So convinced indeed was the Noble Marquis of the legality of the measure, that an express allusion is made to it in the Speech delivered from the Throne, at the opening of Parliament in December 1782. After describing the gallant defence of Gibraltar, the successful relief of the garrison, and the circumstance of the British fleet, after having effected the object of their destination, offering battle to the combined force of France and Spain on their own coasts, his Majesty proceeds

to state, that those of his own kingdoms had remained at the same time in perfect security, and the tranquillity of the country uninterrupted. This respectable state, under the blessing of God, he attributes to the entire confidence which subsists between him and his people, and to the readiness which has been shewn by his subjects in the city of London, and in other parts of the kingdom, to stand forth in the general defence. This paragraph of the speech concludes by a complimentary allusion to the subscription in the county of Suffolk, and to the intention declared at that time by a private Gentleman, of building ships of war for the public service. "Some proofs have lately been given of public spirit in private men, which would do honour to any age, and any country."

Lord Hardwicke then adverted to an opinion, on which much stress had been laid in the debate, of a Noble and Learned Person, for whom on every account he felt himself bound to entertain the highest respect and veneration; an opinion delivered upon a most awful and solemn occasion, upon the condemnation of three persons of high rank and consequence, who had been found guilty by their Peers of high treason, for having assisted in a rebellion, the object of which was, to subvert the government and constitution of these kingdoms. And it is remarkable, that this opinion, so decidedly pronounced in favour of the legality of subscriptions of this nature, was retrospective, and appears to have been given for the purpose of dispelling any doubts that might have been entertained of the propriety of acts, the necessity of which no longer existed. Great pains were undoubtedly taken by the Tories and Jacobites of those times, to obstruct every measure that was adopted for the security of the country, and the suppression of the rebellion; but it did not occur to any man, who was a real friend to his country, and to the government established at the Revolution, that those Noblemen and Gentlemen who stood forth so honourably to themselves and so usefully to the Public in support of the common safety, were guilty of any illegal or unconstitutional act, and no one ventured to insinuate that the Duke of Bedford, the Duke of Montague, Lord Gower, Lord Hallifax, the Marquis of Rockingham, Sir Conyers D'Arcy, Lord Holderness, and the other Gentlemen, whose exertions in the public cause ought never to be forgotten, were guilty of any other crime than that of duty and loyalty to the King, and zeal for the interests of their country. Lord Hardwicke was aware, that to add any thing to the opinion which had been so often alluded to, would rather weaken than confirm, or add weight to it; and being perfectly
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fatisfied of the legality of voluntary subscriptions for the public safety in times of danger, he should give his vote in favour of the previous question.

Lord Onslow rose, not, he said, to enter into a discussion of the general subject, but merely to speak to a point, having been alluded to, in what related to the meeting of the county of Surry. He rose in defence of that meeting, and he would begin, by saying that if there was any thing improper in the advertisement concerning the meeting of the Gentlemen of Surry, at Kingston, he was alone guilty of that impropriety, having not the smallest hesitation to avow himself the author of the advertisement complained of by the Noble Earl who had opened the debate. So far from holding out any thing like a threat, he did most solemnly assure their Lordships, that neither in the terms of the advertisement nor in his own mind was the most distant idea of a menace entertained or intended. He thought it his duty as Lord Lieutenant of the county to call on those, who were anxiously desirous of taking every means for the security of the King and constitution, which they revered and admired, to seize the opportunity that presented itself, and he did so, on the consciousness and assurance that there were many of that opinion who would be zealous and active, the moment they heard there was so good an occasion for the exercise of their zeal and activity. The conduct of the Gentlemen at the meeting in Surry, his Lordship denied to have been such as the Noble Earl had stated it to have been; on the contrary, it was much the reverse of the Noble Earl's representation. The circular letter of the Secretary of State was not understood to be a *requisition* on the part of ministers, nor a demand, nor any thing like it, but a proposal for the consideration and opinion of the county. Having the honour to be his Majesty's Lieutenant, he had called the meeting, and they had said, they would hear what was the language of Parliament, and then decide; the consequence was, another meeting was agreed on, and summoned for the 10th of next month at Epsom, the Gentlemen present all professing a willingness to support Government. His Lordship said, his conduct in convening the meeting had been the same with that of his predecessors in the Lord Lieutenancy of the county, some of whom had been the greatest men that ever lived in Surry. No fault had been found with such a proceeding, till the present period, when those who pretended to be jealous of the Crown, would not allow the subject to come forward to aid it, even when it was found necessary.

Earl Stanhope said, he did not intend to have spoken at all upon this question, but he felt himself called upon by the allusions

lusions made to the conduct of a Noble Marquis (now absent) in the year 1782; that was perfectly different; and after the discussion a few nights ago, when a Noble Secretary of State (Lord Grenville), relative to his Majesty's not having the legal power to maintain a standing army without the consent of Parliament, had expressly stated, that neither in time of peace or war had his Majesty any such power. In that point the House had been unanimous, although a Noble Lord had been misunderstood, and had been so anxious on the dread of being handed out to the Public as an exception to the unanimity that had prevailed on the subject, that he had come down and moved to have the words in the Earl of Radnor's protest, marking him as an exception, expunged from the Journals.

Lord Sydney spoke to order; his Lordship said, it was impossible for him to sit silent from day to day, and not endeavour to resist the torrent of disorder that of late was pouring down upon them. Nothing could be more disorderly, than the frequent practice of late introduced, of referring to what had passed in former debates. If such a practice were permitted, their Lordships would never come to a decision on any one question whatever, so much would its discussion be broken in upon by the introduction of some allusion to what had been formerly said on matters totally foreign to the question.

The Earl of Lauderdale spoke to the question of order. He concluded that what was order for one Noble Peer ought to be order for another. A Noble Marquis had been suffered to read a speech of a Member of another House of Parliament, and no one Lord had called him to order. His Noble Friend had merely alluded to an argument immediately relative, and was not disorderly in so doing.

Earl Stanhope said, that the only proper mode of calling a Peer to order for words, was to move to have the words taken down at the time, and to propose a question upon those words for the decision of the House.

Lord Onslow denied that any such rule, however the strict rule of order, generally obtained. Noble Lords might call to order without being obliged to take down a Member's words. It was, his Lordship said, a common practice in both Houses of Parliament to call to order, when a Member spoke irregularly, and the call was by connivance considered as a hint of which it was fair for the Member to avail himself, correct his departure from order, and proceed with his speech more regularly.

Earl Stanhope denied that he had been out of order. He insisted upon it, that the only correct way of enforcing order was to take down the words, state a question upon those words, and

and take the judgment of the House upon that question. He owned it was customary for Members in either House to give the person on his legs a *hint*, that he was disorderly; and if the Noble Peer or Member so stopped chose it, he might profit by such hint, correct his irregularity, and go on; but if a Noble Lord was not conscious of being disorderly, he had a right to insist on the rule of the House in respect to order being strictly complied with.

Lord Grenville said, nothing could be more disorderly than the Noble Earl's conduct in referring to a former debate. His Lordship pointed out the extreme inconvenience that must necessarily result to the transaction of public business in either House of Parliament, if such irregularity were suffered to obtain.

The Duke of Leeds said, it was a question with him, whether the calling the Noble Earl to order had been strictly justifiable. He rather thought the Noble Earl was first disorderly in having alluded to what had been said by his Noble Friend the Secretary of State on a former occasion. That led him to what he had afterwards said in reference to the conduct of a Noble Lord, who not being quite familiar with the forms of that House, had accidentally a little mistaken his regular course of proceeding.

Earl Stanhope resumed his speech, and said, he had spoken to a former motion, and not to a former speech, and no man should prevent his reference to former motions, because he was persuaded it was no breach of order so to refer. He must however still contend that the only regular mode of calling to order was by moving to take down the words, and then stating a question on those words so taken down. His Lordship quitted further discussion of the question of order, pursued his argument, and noticed what had fallen from Lord Hawkesbury, the Earl of Caernarvon, and other Noble Lords, who had spoken against the question, and strenuously defended the conduct of the Noble Marquis then absent. His letter in 1782 was, he said, far different from the present circular letter of the Secretary of State to Lord Lieutenants. The letter sent to the Mayors and Magistrates of great towns by the Noble Marquis, expressly requested the *observations* only of those Magistrates upon the practicability of the plan suggested, whereas the present letter went a great way farther; and as to talking of money, there was no money mentioned in the letter of 1782; whereas in the present, subscriptions were called for by name, the indorse of one of the papers presented being "General Subscription." It was worthy of observation, the Earl said, that the Noble Lord who had spoken second in the debate, instead of venturing to give a negative to the question of

the Noble Earl, which could not be overthrown by fair argument, had moved the *previous question*. He would take the liberty to explain what the previous question meant, because he knew it was not in general correctly understood; and in this explanation he begged leave particularly to address himself to the young Members of the House. When a great constitutional question was brought forward, and ministers or their agents moved the previous question, the plain inference was, that they admitted the substance of the question to be true and undeniable, so much so, that they dared not meet it, and therefore they took advantage of Parliamentary form to get rid of it. The previous question meant that, and it meant nothing else. With regard to the letter of Lord Shelburne, when Secretary of State, that recommended arming the people. He had no objection, the Earl said, to arming the people, but he would have *all the people* armed, and not leave it to the suggestion of ministers, or the discretion of men of property, who were and who were not to be entrusted with arms. Who knew what use ministers might make of such a power of arming whom they thought proper, which was what they evidently aimed at under their proposed plan? If a great armed force was necessary for the defence of the country, he would readily concur in raising it; if arms were to be put into the hands of any large part of the people, he repeated it, that he would recommend that they be put into the hands of the *whole people*; a recommendation which was contained in the Bill of Rights, and which he wished every man in the country to follow; and a recommendation which was ably justified in a pamphlet written by a Noble Lord (Hawkesbury), *A Discourse on the Propriety of Arming the Nation*. He deprecated the principle of arming the people partially; for in that case, every man, suspected of being a warm friend to liberty, might be put in danger, while arms would be only given to associators; and, in fact, this measure amounted to nothing less than arming one part of the country against the other, and carrying the principle to a still more dangerous extreme. We might have armed foreigners in the country, an army of Austrians for instance, although God knew, if those who armed were to bear the expence by a subscription, there was no great danger of the Austrians becoming subscribers, as it was well known they had no money to subscribe. It had, he admitted, been well said, by a Noble Lord (Lord Hawkesbury), that if the object were legal, it made no manner of difference whether men or money were subscribed. He agreed perfectly to that position, but denied that the measure, whether men or money, or what not, was legal; and therefore, being adverse to the measure itself on its general

ral principle, he should give his vote for the motion of the Noble Earl.

The Lord Chancellor left the woofack, and began by declaring, that he could have no occasion to go into the discussion at length, as the question had been amply argued, and very ably, on both sides. He said, he rose merely to make a few observations on what had fallen from different Noble Lords in the course of the debate. And first he begged leave to deny that the Noble Earl had fairly explained the nature and meaning of what was termed the *Previous Question*. The Noble Earl had done well to address himself particularly to the *young Members* of that House, for any Noble Peer, at all acquainted with Parliamentary forms, could not possibly so far lose sight of his own understanding, and his knowledge of the practice of Parliament, as to be led to adopt the singular construction of a previous question laid down by the Noble Earl. In fact and in truth a previous question meant no more, than that when a truism, or an abstract and theoretical proposition was stated, and the decision of the House upon it was called for, which proposition, on motives of expediency it was not deemed fit to discuss, it was a mode of getting rid of that question for the moment, without deciding either one way or the other upon that which did not admit of argument. His Lordship pointed out the inutility of bringing forward theoretical opinions, and said, that after all that had been urged by the Noble Earl who made the motion, and by those who supported him, nothing had been stated that proved a case to have existed upon which any point could be at issue, or that either called for, or would admit of discussion. He declined entering into a discussion of the ancient precedents respecting voluntary contributions, as that part of the subject had already been argued so copiously, but said he would refer to more modern *data*; therefore he begged leave to call the attention of the House in particular to what passed in 1745—A rebellion had broken out in Scotland, the rebels had entered England, and twelve Noblemen, of high and distinguished characters, spiritedly came forward, actuated by an ardent zeal for the family on the Throne, on the rebellion breaking out, and proposed to raise each a regiment at his own expence, which offer was accepted. The rebellion had made some progress, and the rebels had obtained some advantage over the King's troops. Parliament was not sitting, but the regiments were raised. It happened that at that time there were persons in the other House of Parliament, who, when the Session assembled, took occasion to attack Administration, and charge them with having spread

a false alarm, because they had accepted the offers of the twelve Noblemen above mentioned; at the head of whom was the Duke of Devonshire, whose zeal, as well as that of the other Noblemen who joined in the proposition, did them the highest honour. The Session commenced in October 1745, and the pay of these twelve regiments was soon after brought forward in the House of Commons for the past four months. Then it was that the attack, which in the course of the summer had been a subject of clamour without doors, was made on Administration. Opposition charged them with a design to destroy the liberties and constitution of the country. With a view to effect this purpose, they said that ministers had raised a false alarm; that the danger was trifling; that the King's forces were superior; that they knew General Wade had a powerful army in the north; and that they were perfectly sure, as they necessarily must be, that the rebels would be beaten. The leaders of the men who raised this clamour, his Lordship said, were Sir John Philips and Sir John Hynde Cotton. The estimate, however, for the four months subsistence of these twelve regiments, was immediately voted on Sir William Yonge's presenting it. His Lordship accurately stated all the Parliamentary proceedings on the subject of subscriptions of a voluntary nature, towards the support of Government in moments and times of emergency, quoting Lord Hardwicke's opinion, delivered on the trial of the rebel Lords, the opinion of Sir William Blackstone, and the late Earl of Mansfield, as authorities in support of the general reasoning that he applied to the subject, as he proceeded. His Lordship somewhat at length detailed the circumstances under which Lord Hardwicke delivered his opinion in the year 1747, when he had the melancholy duty to perform of passing sentence of death on four rebel Lords.

His Lordship entered into a comparison between the letter of Lord Shelburne in 1782, and the circular letter then under discussion, and contended, that if there were any difference, the advantage lay in the present instance, which did not go so far as that of 1782. He begged the House to guard themselves against listening to theoretical abstract distinctions respecting the constitution, which could only involve or perplex them; he begged they would adhere to practice; and as the constitution was nicely shaded off, and its essential blessings and benefits depended on certain delicate distinctions, evinced in its practice, which were more understood and admitted, than capable of precise definition, he cautioned their Lordships against being misled by any fine theory, and begged them to adhere to precedent;

precedent; and he thought this argument would particularly have weight, when it was recollected what theory had done in a neighbouring country.

His Lordship took a review of the measure which had been adopted by Administration, and of the papers which had been laid before the House, and maintained, that it was premature to censure them, as they had only as yet amounted to the statement of a proposition, which was to be considered as a part of a proceeding of importance, in some sort to be agitated without doors, before it was, by consideration and interchange of opinions, brought to maturity enough to be submitted to Parliament. If such a proceeding were not legal, all bargains for loans and lotteries were illegal, because they were notoriously settled by the minister before the terms of them were stated to the House of Commons; and indeed it was impossible to make an advantageous bargain in either instance without such practice. How, in fact, could any measure be fashioned so as to be fit for the consideration of the Legislature of the country, unless certain parties were consulted respecting it? And the present measure, he contended, stood in exactly the same situation. It was remarkably hasty in any Noble Lords to take up this measure so early. It had not been commenced more than fourteen days, and with an obvious view to submit it to the consideration of Parliament as soon as it was ripe for such a proceeding, and yet it was already attacked. In 1782, the same measure, though first broached to the country on the 7th of May, had not been brought forward even by the Administration till the 11th of June. He adverted to what had fallen from Lord Stanhope, and gave it as his opinion, that to arm the whole nation would, as he had before said, only be following the example of France, which had displayed the experiment in the most horrible colours. With regard to the question itself, it was, his Lordship said, expressed in terms extremely ambiguous and unintelligible. What private aids and benevolences, for public purposes, meant, he had no scruple to say his understanding had not capacity enough to comprehend. He examined the question minutely, and after descanting on each part of it with great acuteness, said he should vote for the previous question.

Earl Stanhope said, after having been so peculiarly adverted to by the Noble and Learned Lord, he must beg leave to say a few words in reply. His Lordship said, he would still contend that the letter of 1782 was a very different proceeding from the measure made the subject of the motion. He repeated it, that he had no objection to arming the people if they were to be all armed. He referred to the arguments
stated

stated in a pamphlet written by a Noble Lord near him (Lord Hawkesbury), and spoke in terms of warm praise of the excellent doctrines it contained on the subject. If he were called upon for an answer to his argument, his Lordship said, he would refer to that book and to the Bill of Rights.

Lord Hawkesbury rose, just to say that he took no praise for his book. It was written by him thirty-five or thirty-eight years since, when he was a young man. He considered himself therefore entitled, on better knowledge and more experience, to change his opinion; but he had not done so. In fact, the pamphlet contained no such doctrine as the Noble Earl imputed to it; if it had, he should reprobate it as a most mischievous publication.

Lord Lauderdale rose in reply to the arguments of the Noble and Learned Lords who opposed his motion, and declared that he could not discover, either in the legislative acts of the Commons in England, or in the precedents that had been adduced, any authorities whatever in support of the measure of his Majesty's ministers, in their circular letter to the Lords Lieutenants of counties. From the time of Richard III. down to the Act of the 13th of Charles II. the practice of the legislature had been in direct opposition to such measures; and that very Act (the words of which he quoted) was a specific proof that they were considered as unconstitutional. His Lordship insisted, that the arguments he had used, so far from contradicting, were strictly conformable to the doctrines maintained by Lord Hardwicke and the late Lord Mansfield. He adverted to the precedent of 1782, which took place in the late Marquis of Rockingham's administration, when a Noble Viscount (Lord Sydney) had been in office. That measure had been much relied on; but he strenuously maintained, that there was not to be found in it one expression or word, direct or implied, that could by any interpretation be construed to favour a practice so inimical to the British constitution. No pay, in the first instance, was offered; no man was taken from his labour; it was only recommended that they should assemble for an hour of an evening, and habituate themselves to the use of arms: And it was expressly said, that if they were called into actual service, it should be under the authority of Parliament. He ridiculed the idea of comparing him, and those who acted with him, to the party who attacked Administration in the year 1745, for their efforts to prevent the rebellion, and appealed to his own uniform and consistent conduct in public life, as the best answer to any insinuation that he was not a steady friend to his country, and a zealous supporter of the constitution.

Lord

Lord Grenville said, at that late hour he would not attempt to go into discussion; had he happened to have risen earlier in the debate, he should have had much to say in answer to arguments that were extremely irrelative, and to principles that were extremely dangerous. He would, however, for the reasons he had stated, confine himself to a single fact. He declared, he lamented exceedingly the absence of the Noble Marquis, who could have best explained his own meaning. As it was, he must consider the letter of 1782 according to its words and terms, and judge by their import. It was, his Lordship said, idle to suppose that the Noble Marquis wanted ability to express himself clearly. Far be it from him to impute such want of ability either to the Noble Marquis, or to those who had acted with him at the time. The best way to discover the meaning of the letter, was to look to the answers that were returned to it, and to see how those to whom it was sent understood it. He would decline reading the numerous proofs he had collected, and that he then held in his hand, unless their Lordships should express any doubt of their accuracy, and would limit himself to two of them, which were so directly to the point, as not to admit of doubt or misinterpretation. The first of these was the Address which came from the deacon of the Cutlers' company of Sheffield, the first magistrate in that town, in which it was stated, that the message had been received, and that they had not only embodied themselves for the defence of the kingdom, but had entered into a subscription to provide a fund for that purpose. His second proof, *Lord Grenville* said, was equally pointed, though of a different complexion. The mayor of Yarmouth returned an answer in the name of the corporation, saying, that the freemen of the town were willing to incorporate in defence of the country, but were unable to defray the expence, as their trade had been ruined by the war, and half their ships taken, and because they had already entered into a subscription, at the requisition of Government, to erect batteries for the defence of the town; and that batteries had accordingly been erected. Either the requisition of the ministry of 1782 was capable of being understood, or it was not. Of the manner in which it was understood, the facts he had recited, and numerous others, that he was ready to produce, were sufficient proofs; and it was clear from both the letters that those magistrates understood the Secretary of State's letter in 1782 to mean all that had been contended for. If entering into subscriptions for such purposes was an unconstitutional act, the ministry of 1782, which had been got together from a variety of extraordinary and coincident circumstances, and were of no long continuance, were

highly culpable for not immediately informing those who had misunderstood their meaning, of the magnitude and danger of their mistake.

The House then divided, when there were,

<i>For the motion</i>	6
<i>Against it</i>	82
	—
<i>Majority</i>	76

HOUSE OF COMMONS.

FRIDAY, *March 28.*

The Speaker said, that he had been in the House of Peers, and that the Royal Assent was given to the Bill for laying a Duty on Persons to be admitted Solicitors and Attornies; the Bill for laying certain Duties on Bricks and Tiles; the Bill for regulating the Penny-post; and to the Bill for augmenting the Militia; and also to several Private Bills.

Mr. Secretary Dundas read at the bar of the House, his Majesty's Answer to the Address of that House, in which his Majesty thanked his faithful Commons for the cordial support which they promise him in the pursuit of the war.

Mr. Ryder brought up the Bill for indemnifying all governors and lieutenant-governors of the West-Indies, for permitting the exportation and importation of goods in foreign bottoms; which was read a first time.

LOTTERY.

The Chancellor of the Exchequer moved the Order of the Day for the House to resolve itself into a Committee of the whole House, to consider of ways and means for raising a supply; which was read and agreed to.

Mr. Hobart having taken his seat at the table,

The Chancellor of the Exchequer said, the lottery of the present year was more advantageous to the Public than the last. Seven different persons had come forward to offer a price for tickets; and of course he had concluded a bargain with the highest bidder. He moved a Resolution to the following effect: "That it was the opinion of that Committee, that "towards raising a supply, to be granted to his Majesty for the "service of the present year, there be granted the sum of "704,066l. 13s. 4d. to be raised by way of lottery, to consist "of 50,000 tickets, at 14l. 16s. 3d. each."

Mr. M. A. Taylor said, that notwithstanding the existing circumstances of the times, which might induce the Right Hon. Gentleman to imagine he had abandoned his opposition to a lottery,

lottery, he never had, nor never would abandon it. He still considered it to be a mode of raising supplies pernicious and destructive in the extreme; and although insurance might in some measure be prevented by the vigilance of the magistrates, and the Commissioners of the Stamp-office, he suspected that it would never be abolished while a lottery continued. Whatever might be urged upon the necessity of raising supplies, this was a measure that depraved the morals of the people. He had conceived, from what had passed in former sessions on the subject, that the Right Hon. Gentleman had abandoned this fatal project, and he was the rather led to hope so, as it was not brought forward so early as formerly, but was sorry to find himself mistaken. He was aware that the war had created alarms, and on that account, when every one admitted the expediency of an increase of the resources, that those who had joined him heretofore would now secede, and oblige him therefore to decline the enforcement of that proposition which he should certainly submit in future. He had hoped, as the lottery of last year had turned out so bad a speculation, that none would be wild enough to venture upon another; and he was confident that better resources might be resorted to. Though it appeared a voluntary tax, he was sure it was an oppressive one, and that it drained the people of more money than any other. From early experience he had lamented the fatal consequences of it; servants and families were ruined, while pawnbrokers were the only gainers. People who had disposed of all their little property by this wretched species of gambling, had at length pawned their childrens' shoes and buckles to pursue the same delusive folly. In short, he believed he should be warranted in stating, that all vices have had their origin in lotteries; and if an appeal were made to the judges who presided at the Old Bailey sessions, they would declare, that many of the unfortunate victims who have suffered at the gallows, were first seduced by the influence of this abominable evil.

Mr. Francis concurred with *Mr. Taylor* in opinion as to the effect of a lottery; and thought he was right in his determination to do all in his power to put an end to it.

Mr. Fox condemned the lottery also, as a source of revenue; but would not oppose it then, because he should not oppose what contributed to the revenue, at a time when we had so much occasion to increase it. When this subject had been last discussed, he understood that a mode was to be adopted with respect to drawing, that was different from the former mode: He was sorry to find, on inquiry, that this new mode had not been productive of all the good that was promised at the time

as likely to result from it, with respect to the prevention of insurance. He thought some further regulation should take place in that particular, even if the revenue was to profit less by a lottery than it did at present. He therefore wished to know whether the next lottery was to be drawn in the same manner as the other lottery.

The Chancellor of the Exchequer said, that it was endeavoured, as much as possible, by the last regulation, to prevent the evil which had generally attended the lottery; and he had reason to hope that, from the vigilance of magistrates, some of the evil had been diminished, although he feared there was a good deal still remaining. But he had not been able to make any further regulation in that respect in the lottery of the present year.

Mr. William Smith thought it unnecessary to state any further reasons for opposition. He could not, however, avoid one observation, which was, that that Convention, which all had so much reviled, reprobated lotteries, and abolished them as highly injurious to the morals of the people.

The report of the Committee was ordered to be made on Monday the 31st.

VOLUNTEER CORPS.

The Bill for augmenting the force of the kingdom, by the addition of corps to be raised in the various towns, counties, &c. for their respective defence, was upon motion of *the Chancellor of the Exchequer* read a second time. Upon the motion for its being committed,

Mr. Fox wished to call the attention of the minister, and the House, to the inaccuracy with which certain important parts of it were worded, and which, from the ambiguity of expression, appeared to him to require amendment. In the Militia Bill there was an ambiguity in the terms *imminent danger*, under cover of which, according to his ideas, the militia force was rendered liable to be called out upon looser grounds than what were originally intended; in like manner in the present, the term *appearance of danger*, which was substituted in the stead of the words *imminent danger*, was equally exceptionable, as being equally loose. Indeed, the meaning of the words was little different; but when he considered to how much greater length the one might be extended than the other, he thought the House should be cautious how they used words that might convey greater power to ministers and the executive government than was necessary. He therefore wished, that the words "imminent danger" were substituted.

The Chancellor of the Exchequer conceived it to be absolutely necessary to use some such term, as it certainly could not be intended

intended to confine the calling of the force out, to actual invasion; but, as he had stated on a former night, it might be equally beneficial upon any prospect of danger to make a general move, so that the more inland force should be brought nearer to the coast. As to the conditions under which those corps would be subject to march, and as such liable to military law, that would in a great measure depend upon the terms upon which individual corps should agree to embody themselves. He thought no words could with such strict propriety be used.

Mr. Sheridan apprehended that, as the Bill now stood, under the words "*appearance of invasion*," all the troops the Bill legalized would be liable to be called out almost on any pretence. He thought that this might deter many persons from enrolling themselves, and therefore might defeat the real good purposes of the Bill, because there was no attention paid in the Bill to particular stipulations with individual corps as to the terms upon which they would be subject to military law; but by the general terms, all would be equally bound to march, when called upon; and thus all would be equally subject to military law. The minister had professed, in framing this Bill, to take a similar one, adopted at the close of the last war, for his model; and he had done so, except in one amendment, which, in his opinion, would render the whole Bill in a great degree nugatory. By the former Bill, the force was not to be called forth but in time of actual invasion; and that was a condition to which all must have subscribed, whether the Bill existed or not. But now he apprehended few would be found willing or ready to enroll themselves, because liable to be put under the pains and penalties of martial law. What was meant by the appearance of invasion? There was at present the appearance of invasion from the King's speech: The probability of an invasion was a very different thing, and on which he confessed he had no alarming apprehensions. But he was afraid that this vague expression, "the appearance of an invasion," would stand in the way of the voluntary service which the Chancellor of the Exchequer professed, by this Bill, to endeavour to encourage, because it went to the subjecting men to military discipline unnecessarily, and on uncertain grounds. Mr. Sheridan apprehended that by this Bill all the fencibles, or volunteer corps, might be subjected to military discipline, for the whole remainder of the war, if any Lord Lieutenant or Sheriff of a county should happen to call them out once to suppress any internal tumult or disturbance. This, he feared, might operate to deter many from enlisting, who might enlist if they were assured that they would not be under such military

tary discipline previous to any invasion or actual rebellion taking place.

The Chancellor of the Exchequer observed, that these persons would not be subject to military discipline until they actually marched under arms: To this they did not render themselves liable at the time of being enrolled, but it was to be stated to them before they actually marched; and then being subject to military law, was only to be the consequence of a specific agreement entered into by themselves. This was provided in the Bill; and he hoped the Hon. Gentleman, when he came to employ his ingenuity on this subject again, would not do it to excite any alarm in the public mind, and produce an effect which might tend to prevent any persons from enrolling in this corps for assistance in our internal defence: He hoped, in future, that Gentleman would employ his ingenuity rather to remove than to infuse doubts, that must necessarily operate to the prejudice of the public interest.

Mr. Sheridan said, that his object and his wish was to deal fairly with the people of this country, by telling them what the real situation was in which they were to be placed. Ingenuity, he had no doubt, they would naturally enough expect from the Chancellor of the Exchequer, and he could supply them copiously with that article; but what they would chiefly require was a little plain dealing.

The Bill was ordered to be committed for Monday the 31st.

PRODUCTION OF PAPERS.

Mr. Taylor asked the Chancellor of the Exchequer, at what time the salary of Sir Gilbert Elliot ceased as Commissioner of Toulon?

The Chancellor of the Exchequer said, he could not tell at what time the salary ceased, because that Honourable Baronet at this moment, although not at Toulon, held a commission in his Majesty's service of a very important nature, and for which he received his salary.

Mr. Taylor said, he was really obliged to the minister for this ingenuous answer.

Mr. Grey reminded the House, that a motion stood for Thursday the 3d of April, upon the subject of the war, and there lay on the table a list of the killed and wounded in the last campaign; he conceived therefore it would much facilitate the discussion, if the said list were made as public as possible; for which purpose, he moved, "that the list be printed for the use of the Members." He said, he also intended to move for a list of the stores, &c. lost in our attack upon Dunkirk; and also for the returns of the killed, wounded, &c. as published in the Gazette.

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The Chancellor of the Exchequer opposed these propositions as improper. The printing the list on the table could, he said, answer no good purpose, because it was not so voluminous but that any Gentleman might quickly make himself master of it. With respect to the other papers, he should oppose their production, inasmuch as it was obviously improper to make public any particular loss, unless that loss could be imputed to some particular misconduct, of sufficient magnitude and importance to call for censure; and the House had already decided to the contrary upon the subject of Dunkirk.

Mr. Fox thought, that the Right Hon. Gentleman's system, as to the production of official papers, had been carried to a further extent in this than in any former session. He would be understood to speak of the accounts of lost stores. Was it not proper that the House, previously to considering a question relative to the conduct of the war, should be informed of its losses? It could not be urged, upon the present motion, that a compliance with it would afford information to the enemy. Could any thing more materially relate to a question of good conduct, or misconduct, than accounts of losses? It had, *Mr. Fox* said, been the universal practice in the good times of the constitution, to afford the House all the information which could be given without danger, or prejudice to the public interest; and he hoped, that the Right Hon. Gentleman, upon this occasion, would depart from his extreme system, which was contradictory to many of the most essential powers of Parliament. With regard to the motion for printing the returns already upon the table, his reason for wishing that to be carried was plainly, that it might be seen whether the losses mentioned in them corresponded with the statement of those losses published in the Gazette.

Mr. Grey remarked, that if the minister persisted in refusing, it was in vain for him to persist in asking; he therefore agreed to withdraw his motion for the present; but he gave notice that he would renew it on some future day.

VOLUNTARY SUBSCRIPTIONS AND BENEVOLENCES:

Mr. Sheridan rose to make his motion upon this important subject, agreeable to the notice he had given on a former day. He said, that, considering his extreme hoarseness, he should have occasion to claim all their indulgence and attention, in order to render himself intelligible to their understandings, during the long detail of argument he should have to produce. The proposition he meant to submit to their decision and judgment was so congenial with the spirit of the constitution, so necessary to its maintenance in the purity in which it had been handed down to us by our ancestors, so es-

sential to the security of the people, and to the very existence of Parliament, that he flattered himself it needed only to be heard to be generally received and adopted. The demand recently made by Government, and addressed in the circular letter of the Secretary of State to the different Lords Lieutenants, was of the utmost importance considered in every light in which it could be possibly viewed; and its importance was increased by the circumstances by which it was accompanied. The Right Hon. Gentleman had chosen to persist in the measure which he had adopted in such a way, as to make it evident, that he rather acted for the sake of establishing the principle, than from any motive of hope of immediate advantage to the State. He would have been happy, Mr. Sheridan said, to have put off the discussion, if, even after the first mention of it in that House, the Right Hon. Gentleman had thought proper to come forward in a fair and constitutional mode, to apply for a Parliamentary sanction of this most alarming measure. But it seemed, through the whole of his recent conduct, to be his first desire, in the ostentation of his power, to increase the prerogative of the Crown; and in the choice of means to give the preference uniformly to that which contradicted some established usage, violated some fundamental principle, or demolished some constitutional guard or fence. This had been the case in the circumstance of landing foreign troops in this country. Had he chosen to apply to Parliament for their sanction, no one would say that a doubt would have arisen, or the smallest hesitation have taken place, about granting an immediate sanction to their entry into the kingdom. But the Right Hon. Gentleman had disdained all such application. Anxious to establish the precedent that the Crown could, at its pleasure, introduce any number of foreign troops into this country, he disdained all indemnity, and rested it upon prerogative. In the same manner, with a Parliament sitting, a Parliament certainly not indisposed to comply with any measure proposed by the Right Hon. Gentleman, instead of coming down to state and desire the further aids that might be necessary for the defence of the country, an application was made, through the Secretary of State, to the Lords Lieutenants of Counties, to instigate a subscription, and levy a sum of money, among the people, not subject to the controul of Parliament, nor even within its cognizance. When this extraordinary proceeding was noticed in Parliament, it was thought proper at length to bring down a Message from the Crown. He even then hoped, Mr. Sheridan said, that in that Message words would have been introduced, and a proceeding taken upon it, which would have made his present motion

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motion unnecessary. He hoped that the Right Hon. Gentleman would have felt it to be his duty to call upon Parliament to authorise the proceeding; and even this, though a tardy and ungraceful mode of conduct, he should have been happy to have seen. Had that been the case, he should not have thought it necessary to submit to the House the motion which he held in his hand. In the Message from the Crown, however, not the slightest application was made for any authority or sanction of the proceeding. All that was done was, to bring in a Bill to put under certain regulations the men to be levied by the money so to be subscribed.

Mr. Sheridan said, the question for the House to consider was, Whether the people had a right to offer and to give, and whether the Crown had a right to receive, a supply or subscription for public purposes, without the knowledge and consent of Parliament? This question involved in it no less than, Whether the Crown could maintain a force, and carry on the executive government of the country, independent of Parliament? To which he meant to add, that the requisition made by ministers for that purpose added considerably to the illegality of the whole proceeding. He averred, and should endeavour to prove, 1st, That it was against the reason of things, and against the first principles of a mixed government, and of a representative system, and consequently not reconcilable either with the spirit or the letter of our constitution, for the Crown to possess any such power. 2dly, That it was not consistent with the ancient and sound usages of the country, conformable to the best authorities, or to be reconciled to the custom and practice of the kingdom in good times. And, 3dly, That even if it were consistent with the usages, and might be countenanced by authorities, that it was not a wise course, nor fit to be resorted to as a source of revenue for the security of the kingdom. These doctrines were all clear to his mind; but if he should be able to make any one of them obvious and manifest to the House, it was enough for the purpose of his motion.

As to the first, *videlicet*, that it was against the reason of things that such a power should exist in the Crown, he would maintain, that there could be no true security for public liberty except on this ground, that the Crown can neither take nor use property to any public purpose without the previous consent of Parliament. It was not the boast of Englishmen merely that property was secured to them, but that no property, however it might come into the hands of the Crown, could be applied to any possible purpose, except such as had been previously authorised by Parliament. It was not then
simply

simply the boast of our freedom, and the basis of our security, that the Crown could not take money out of our pockets, but that the people cannot, by any act of indiscreet benevolence, present their money to the Crown otherways than through the channel of Parliament. It it were otherwise, and that grand juries, corporate bodies, county meetings, and other assemblies, could, at their pleasure, collect, subscribe, and present sums of money to the Crown, to be used at pleasure, Parliament must become from that moment useless and unnecessary; the King would have the means of employing this money to purposes not previously explained; it being the peculiar office and duty of Parliament to square and adapt the grant of money to the special purpose, and to see that no sums whatever were put into the disposal of the executive government, which were not to be appropriated to a purpose that the House of Commons had previously judged necessary. If grand juries and county meetings could not, with safety to the constitution, grant such sums of their own motion, how much more alarming must it be, if a supply of this kind were to be demanded of them by the Crown; and to be granted upon the authority of that demand? What must be the situation of the country, if the Crown could at pleasure appeal, not to Parliament, but to knots and selected societies of individuals, and procure supplies for purposes unknown and unexplained to the legal representatives of the people? Were it not possible that a moment of delusion might arise, when, by exerting all the influence of the Crown, and adding to it all the quackery of cant words, and of inflammatory appeals to their passions, the people might be brought into a temper to grant supplies, even when the Parliament had refused them? Mr. Sheridan said, he would mention an instance within the recollection of every Gentleman present: In the year 1784, many persons were of opinion, that the House of Commons should have refused the supplies, as the best means of resisting the unconstitutional attack that was then made on the privileges of the House. He, for one, was against the measure; but it certainly would not be denied, that if at that time it had been adopted, the people of the kingdom were, by the artful delusion, and cry of a fourth estate, and of a monstrous coalition, brought into a temper to have granted a supply to the Crown, and that in a way to have made all the functions and purposes of Parliament unnecessary to the Crown, and consequently useless to the people. The East India Company would, no doubt, have been ready to come forward with their 500,000*l.* or 1,000,000*l.* and a sum at least equal to that annual grant, which the wisdom of their ancestors had thought fit to reserve in the hands
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of Parliament as the best security for all their other privileges. They would have subscribed against all that was great and glorious, against the person who was now at the head of the law, and against those who had thought that nothing could preserve the liberties of this kingdom inviolate, but involving the nation in the present most blessed and advantageous war. Suppose Parliament possessed of all other powers of legislation, but that the one power of granting the public money were to remain vested in the People themselves, who were in their own persons to vote it in their different assemblies, to assess themselves in their respective counties, this would appear, at first sight, certainly not so absurd or improper a provision, nor one from which many or great evils were by any means to be apprehended. But was there one man who was so superficial or ignorant an observer, as not to see, that if this were the case, the whole constitution would be overturned, and Parliament made a mere mockery, as the King would be rendered independent of that watchful body? Of what use was it that they were in possession of what might be termed the strong box of the nation? Of what use, but that the King might be under the necessity of governing by his Parliament, and that he might be without money but through the grants of Parliament? The King was certainly not bound to call the Parliament together, nor had they any surety of existence but where the Crown neglected to assemble them for three years. What tie then had they to insure their being frequently brought together, but the exclusive right and power of granting money? Would the House stand by tamely, and see the great and strong fence of all their liberties, the power of the purse, invaded in the slightest manner? And would they say that we had any sensible practicable security for any one privilege, if the Crown had resources independent of the People? Under this principle it was, that they held that the King could have no power independent of them; that they were constitutionally jealous of every step taken, and uncourtier-like in their duty, that they said to Majesty, "We know you would seize on power if it came within your grasp; but, as it is our duty, we will take care to prevent you."

The question might be asked, Whether the Crown could, for any public purpose, make use of money derived from private resources? He had no hesitation in saying, that it would amount to an overturning of the whole constitution, if the King could employ any funds to any purpose whatever not authorised by Parliament. He went to the whole extent of this principle. Supposing, for the sake of argument, that the Throne of England had devolved to the House of Bourbon,

would it have been a sufficient security to Englishmen, that the King of Great Britain, being also the King of France, could not apply the immense sums which he might have drawn from that flourishing kingdom, to any purpose in England, unauthorised by the Parliament of England? Would it have been sufficient for them to say, "our liberties are safe because you cannot put your hands into our pockets?" No: It was seen and felt, that there could be no security for the liberties of England, if the King of England could draw resources from another kingdom, of so immense a kind as to render him superior to the power of the purse in the hands of a British Parliament. They had not the same fear with respect to the Elector of Hanover, because no resources could be drawn from that Electorate dangerous to British liberty. The principle, however, had ever been present to the minds of thinking men; and both in commuting the hereditary revenue which the King drew from the colonies, and also in settling the constitution of Ireland, especial care had been taken that the Crown should not have the means of drawing into its hands sums that might by their application be used injuriously to the country. During the American war, those who were most strenuous in the support of it, contended for the supremacy of the British Parliament, upon the ground, that it was necessary to prevent the King having a resource whence he might draw supplies independent of his Parliament; and this argument was neither undeserving of serious consideration, nor devoid of weight. With regard to the extent to which this principle of supplies, independent of Parliament, being legal, might be carried, it was worth while to inquire, and there were authorities upon it which must have considerable weight. That which might at first be voluntary, would at last be exacted as a matter of right. Indeed, he denied that there could exist any such thing as pure voluntary subscriptions in the fair and true sense of the term. If it was a measure so highly objectionable, and so strongly resisted in old times, what were we to say, when we looked at the increasing influence of the prerogative down to the present day? Look at the long train of custom-house officers, excisemen, inn-keepers depending on their licences, &c. &c. scattered over the whole kingdom, and who could say that a single guinea was subscribed from a principle purely voluntary? He would venture to say, that not one in twenty was a free voluntary subscriber.

The extent to which the principle might be driven, was pretty well exemplified in the late meeting for Berwick, a meeting which he did not hesitate to pronounce illegal, and which could only be aggravated by its being founded upon an appli-

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application from the minister. At this meeting they had resolved to raise two troops of horse, of fifty men each, for their defence, which should be at the disposal of the Crown, to go to any part of Great Britain. To defray this expence, they resolved upon a kind of land-tax, by which they imposed a levy on all heritors, amounting to eight months of their annual cessment. Regretting, however, that they could not at once extend this to the property of those who were absent, they drew up a circular letter to all absent heritors, signed by their chairman, Robert Hay, calling upon them to subscribe this eight months' cess, and intimating that it would be a mark of their loyalty and attachment to the King. Nothing could be more illegal than this; it was only aggravated by its being done on an application from the Secretary of State. Here was money raised, and money applied to the levying of troops, and all this without the knowledge or consent of Parliament, and those who did not chuse to subscribe were to be held out as disloyal and disaffected subjects of the King. The only plea in favour of this proceeding, that could be urged, was, that though the money was subscribed, yet it was not to be applied in any other manner than by consent of Parliament. He called upon any one to produce a single law by which it could be proved, that where it was lawful for the People, on the one hand, to subscribe, and for the Crown, on the other, to receive, it was equally lawful for Parliament to direct the application of it. Suppose, however, the legality of such interference to be demonstrable, might it not be rendered nugatory, by the danger of waiting for such an application in the pressure of present and imminent difficulties? Thus, on the subject of landing foreign troops, a nice distinction was to be made, and it was contended that there existed no danger, because ministers, in doing so, were at the same time bound to give notice thereof to the House. Neither in that, nor the present instance, could any law, bearing such construction or necessity, be produced; on the contrary, if it was legal for the King to accept, it was equally legal for him to apply the benevolences which might be granted. But he asserted that there was nothing contained in the statutes to justify any other grants than those voted by Parliament, but that the direct contrary was the clear inference to be deduced from them all; and to prove his assertion, he took a review of the different periods in which the business of benevolences was agitated.

Mr. Sheridan then went through the history of benevolences, as they appear on our English records, from their first commencement. The first instance we had of benevolences was in the time of Edward IV. The next was in the case of

Pym in the 4th of James I. upon his resisting the payment of certain duties levied without the consent of Parliament. The arguments used upon this occasion fully established the point, though not the principal one in discussion, that the King had no right to such means of support. After this follows the Petition of Right in 1629, during the reign of Charles the First. It was true that this only marked compulsory benevolences, but that was because that was the evil particularly felt at the time, and to remedy which they, of that day, particularly turned their minds, and bent their attention. Compulsory gifts were one offence; and gifts, however free, were another, and no less a breach of the privileges of that House than the other; and, therefore, although he might seem to jest the other day, he was perfectly justifiable, when he said, the Sergeant at Arms ought to be sent to take up the Chairman who should subscribe to the resolutions of a meeting violating those privileges by voting a supply. The next case in point of order, after the Petition of Right, was the case in 1615, of Mr. Oliver St. John, who was prosecuted in the Court of Star Chamber for a publication against the legality of benevolences. It would be saving the House much trouble if he were to quote some passages out of that publication. The case was this: The minister of the day having occasion for aid, asked benevolences precisely in the present mode, and not by that usually practised of old, namely, by commission under the royal seal. Mr. St. John, being convinced of the illegality of such a measure, wrote a letter to the Mayor of Marlborough, dated 15th of April 1615. In this letter Mr. Oliver St. John stated the objections which he had to this kind of benevolence. First, he said, "It was not only without, but against reason, that the Commons, in their several and particulars, should be relievers or suppliers of his Majesty's wants, who neither knew his wants, nor the sums that may be raised to supply them. Secondly, it was against reason, that the particular and several Commons distracted, should oppose their judgment and discretion to the judgment and discretion of the wisdom of the land assembled in Parliament, who had there denied any such aid." Mr. St. John further said, "That some for fear, some in pride, some to please others, would enter into this contribution; and he stated it to be against the constitution, and a violation of the great and solemn oath taken by the King at his coronation, for the maintaining of the laws, liberties, and customs, of this noble realm." For this letter of Mr. Oliver St. John's, he was prosecuted in the Star Chamber, as he had before stated, and his sentence was, to be fined 5000*l.* and to be imprisoned for life.

The great Sir Francis Bacon was then Attorney-General,
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and the speech that he made upon that trial was most memorable. He defended the measure of benevolences to the Crown by most extraordinary arguments. "God forbid (said Sir Francis) any body should be so wretched as to think that the obligation of love and duty from the subject to the King should be joint, and not several. No, my Lords, it is both. The subject petitioneth to the King in Parliament: He petitioneth likewise out of Parliament. The King, on the other side, gives graces to the subject in Parliament; he gives them likewise, and poureth them upon his people out of Parliament: And so, no doubt, the subject may give to the King in Parliament and out of Parliament." Sir Francis remarked, "That it was thought fit, by the Lords in Council, to make a proof of the love and attachment of the country; and they devised and directed letters unto the sheriffs and justices, declaring what had been done here in London, and wishing that the country might be moved, especially men of value; and Sir Francis, in the course of his argument, defended the measure, because it was to work upon example, as a thing not devised, or projected, or required, no, not so much as recommended, until many, that were never moved nor dealt with *ex mera motu*, had freely and frankly sent in their presents; so that the letters were rather like letters of news, of what was done at London, than otherwise; and we know *exempla ducunt non trahunt*—examples do but lead, they do not draw nor drive."

The Letter of the Right Honourable Henry Dundas, Mr. Sheridan said, was exactly on the model of the Letter of the the Council of James I. Sir Francis's whole argument went upon the idea that this benevolence was not an exaction called a benevolence, and which the Duke of Buckingham spoke of in his oration to the city. His definition of a benevolence was extremely curious: He defined it to be, "not what the subject of his good will would give, but what the King of his good will would take." And after these valuable arguments in favour of benevolences, Sir Francis ran through three pages of panegyric on his Majesty, as the greatest warrior, finest writer, most sublime philosopher, most Christian monarch, and the handsomest man in Europe: And upon these arguments, as he said, the Star Chamber fined Mr. Oliver St. John 5000*l.* and condemned him to imprisonment during the King's pleasure. If the Star Chamber was revived in this country, or if the Scotch Law, or rather the practice of the Scotch Law, were introduced into this country, then perhaps this system of benevolences would have greater success than they were likely to have, as the example of Mr. Oliver St. John might be revived. Which of the two the Right Honourable and Learned Gentleman would prefer to introduce, it was not possible for him to conjecture.

One material point for consideration, in his opinion, Mr. Sheridan said, was the statute of the 13th of Charles II. which in reality settled the point then under the discussion of the House, for that statute in its preamble declared, all voluntary aids and benevolences from the People to the Crown to be illegal; but in consequence of the sudden and pressing necessity of the King, it did legalize a benevolence on that one occasion. This proved incontestably, that the doctrines of the legality of voluntary subscriptions were ill founded, by admitting of voluntary gifts from the immediate necessity of the case; because if they were legal, then was the Act authorising them useless. So careful, indeed, was the Act in allowing the exercise of the privilege admitted, that it limited and restrained the amount to which individuals should be permitted to subscribe, confining Peers to 400l. and Commoners to half that sum. If therefore it was legal that we can give what we please, why thus limit our generosity, but on the principle, that to suffer the Crown to obtain unlimited possessions was a dangerous and improvident measure? Nor were the limitations of the Bill confined to the amount alone; the time during which it should last was likewise fixed. It was declared in the body of it, that no commission for extorting money should issue as heretofore, or any aid be drawn from the people but through the medium of Parliament; and lastly there was a special provision in that statute, that it should never be referred to as a precedent on any future occasion. By this Petition it was confirmed, that no man should, in future, be compelled to yield any gift, loan, or benevolence, without the consent of Parliament, nor be confined, or molested, or disquieted in case of refusal. The application from the Crown for money is an offence of one nature, and the contributions, voluntary and *bonâ fide* free offerings on the part of the people, is another. This statute of Charles the II^d was the law to this day. No one proceeding, in the shape of a law, had taken place since that time; for the Bill of Rights confirmed by inference the 13th of Charles II. though, like the Petition of Right, it confined itself to benevolences at the requisition of the Crown. Mr. Sheridan said, he could not conceive what possible case they could ground themselves upon since the Revolution, what authorities they meant to bring forward, or upon what practice it was their intention to justify their proceeding.

The Right Honourable Gentleman had thrown out an insinuation that he had authorities: It would be found with what reason he had ventured to make this assertion. He would take upon him to say, that in no one instance was there a case to be found in any thing similar to the present. The example of 1745, when a rebellion was raging in the country, and Par-
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liament was not sitting, would surely not be mentioned as a pregnant example. It was one of those cases of extreme necessity which superseded all the usual forms, as well as all law: It was a case that struck at the vitals of the Constitution, when Government would not have merely been justified in taking the aids that were offered, but when they would have been justified if they had gone even to greater lengths, and had by the proclamation of martial law, put the whole body of the people under arms, and removed the property of individuals from the reach of the common enemy. It was not from a case of such necessity that they would argue therefore; nor did he conceive that the Right Honourable Gentleman would choose the case of 1756 as the ground of his justification. At that time bounties were offered to such seamen as should enter as volunteers, by the city of London and other great bodies, and the Earl of Chatham had written a letter to the city of London on the occasion. But would the Earl of Chatham, if he were now alive, adopt, or even countenance the unprecedented measure of his son? The case of offering bounties, in addition to the bounties given by the Crown, was very different from benevolences to the Crown. Those bounties could not be considered as money given to the King, but as an additional reward given to individuals, already known to the Constitution as a body; as if in the late war, the merchants were to reward the gallant exertions of their fleet by a sword to the officer, or money to the men; would this be a supply? or rather a specific gift to specific individuals, which was to be considered rather as an encroachment upon than extension of the powers of the Crown. The money was not given to the King; nor did it come in any shape or manner into the hands of Government: It was to be given simply to those individuals, who, in consequence of an Act of Parliament, entered into his Majesty's service; and who had already received the sum directed by Parliament. It was a measure which countenanced a measure of Parliament, but which did not go farther; it did not add one man to the grant of Parliament, but it simply held forth additional inducements to the country to enter into the service, deemed to be necessary by the Parliament.

The next instance, Mr. Sheridan said, was that of 1778, and this was of the same sort with the former. Parliament was adjourned for the purpose, as it was said, of procuring the additional aids at a time when they were not sitting, and when consequently they should be free from the animadversions that they dreaded. During this adjournment, accidental or contrived, certain persons in the city of London and elsewhere, did resolve to raise sums, and to put them under the disposal of a committee,
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for the purpose of buying clothing, &c. In this, however, the instance differed from the present; it was not done at the requisition of the Crown; his Majesty's ministers were not seen in it; and that surely was not one of the cases in which the ministers were to find their great authorities. Great authorities were to be found at that time against the measure. A Right Honourable Gentleman, then Member for Bristol (Mr. Burke), spoke with his usual splendour against a measure that struck, as he said, at the very foundation of public security.

Another great authority who countenanced the Earl of Chatham in the case of 1756, and whom the Right Honourable Gentleman would not, he conceived, despise upon that account, objected to the measure, with that warm zeal for the constitution which had distinguished his honourable life (Earl Camden). The authority of Mr. Dunning, and of many other most eminent men, was against his Majesty's ministers on a measure that had not half the aggravation of the present.

With regard to the case of 1782, at which the Right Honourable Gentleman seemed to glance on a former night, and which he meant to insinuate was a proof that his Right Honourable Friend had then countenanced the principle of the measure, was in his opinion totally inapplicable: It was, in reality, a measure that might have been deemed, both on account of the time at which it came, and on account of its own nature, to be highly democratic; for immediately after a letter of the Duke of Richmond, and of his motion for universal suffrage, it was a recommendation to the people to take arms for their own mutual defence; but not putting them into the hands of the Crown, it was stating what was undoubtedly constitutional, that for mutual defence, and for general security, it would be wise and prudent for every man to be armed; but it did not recommend that levies should be made for the Crown, or that money should be put into the disposal of the Crown. Mr. Sheridan said, he had thus gone through the precedents in the history of England; and he concluded from them, that the measure was clearly hostile both to the spirit of the constitution, and to all the sound usages of the country.

His third proposition, that, even if it could be reconciled with the constitution, and with custom, it was still a measure unwise, futile, and unfit to be resorted to, would soon receive a better illustration than any that it could derive from his arguments; for it would very shortly be seen what would be the result of the present attempt; there never having been a moment so favourable for the experiment as the present. The country had all the motives to a grand display of benevolence that any possible

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possible concurrence of events could engender. The expences of the present year would be at least five and thirty millions sterling for the payment of our hereditary debts, and for the maintenance of this most glorious war: A war essential to so many grand objects, that it was almost impossible to enumerate them; a war for the salvation of the British Constitution, and for the safety of Kings; a war for the preservation of the Christian religion; a war for the sake of privileges and distinctions; a war for the restitution and establishment of human order; a war for securing the safety of this country, and the safety of other countries; a war, in short, in which all the emotions of the soul were to be roused, and in which, if ever it could be expected to draw a great sum from the source of benevolence, the exertion of the people on the present occasion was to demonstrate the extent of this species of resource; for if the people were only to advance their money upon all the inducements that were held out, and subscribed each but one pound for kings, one pound for their country, one pound for their constitution, one pound for religion, one pound for humanity, one pound for civilized society, &c. &c. what must not be expected from a generous and opulent people so moved? Certainly that the whole debt must be quickly wiped off. He would be bold to foretel, however, that it would be treated with merited disdain, and that it would be as unproductive as it would be oppressive, litigious, and repugnant. Nothing could be more idle at the same time than to call it voluntary.

When the enormous influence of the Crown was considered, running through all its channels of patronage, terror, the revenue laws, the chain of dependence, and all the varieties of aspect, under which, to the most distant parts of the kingdom, it entered and pervaded every place, Mr. Sheridan said, it would be impossible for men to act from their own motion, or to resist the torrent of this prevailing power. An officer of the Crown, with his colleagues, would be deprived of their places if they did not do it. All under the frown and lash of the executive government must gratefully receive it, or resign their employments. It was espoused and encouraged only by the enormous influence of the Crown, and was apparently invented as the test and pledge of their affection. Nor could it be considered as the most equal mode, since some from ostentation, and more from interest in the view of deriving advantage from the subscriptions to be raised by getting rank for their relations, or contracts, or agencies, would be induced to subscribe, not what they could afford, not what could be considered as a genuine resource, but as the aggregate of pride

and mercenary spirit for a time, and which could not be resorted to often, without fallacy and defeat.

The last objection Mr. Sheridan stated to the measure, was the inequality with which the levy would proceed, some giving too much, as others would give too little; for he did not suppose we were to be compelled into it, after the manner of the old story, by which those who lived saving were compelled to give, because they were likely to repair it; and those who lived freely were equally obliged to contribute, because it was evident that they could afford it. It was one of those instances in which the Right Honourable Gentleman mimicked the Jacobins, as indeed he mimicked the Jacobins in every thing. Instead of displaying a manly and honourable confidence in the loyalty and attachment of the people of this country to the person of the King, and to the system of the Constitution, the government set up a dark, gloomy, Jacobinic system of inquisition, destructive of the concord, comfort, and happiness of society: Instead of opposing to the sanguinary example of the Jacobins, and of their horrid punishments, the example of a mild administration of criminal justice, and shewing, by the beneficence of our courts, the beauty and efficacy of a well-modelled and rational system of freedom, we had striven to imitate their conduct, by straining our criminal laws beyond the example of all former times, the blackest in the annals of England, and shocking to the feelings of humanity, by punishments out of all proportion to the measure of the offence; and now, instead of opposing to their irregular, unsubstantial, and inefficient schemes of finance, a system of solid, equal, regular, and permanent revenue, we had adopted their very project, and grasped at a shewy but miserable phantom, which would be found to elude our power, and to leave us in greater wretchedness and difficulty than ever. In every way in which he could view the subject, it was a measure calculated not merely to delude the Public for the time, and to be vexatious and oppressive as far as it went, but it appeared to have been adopted for no other purpose under Heaven, except to take advantage of the decay of all popular spirit for the establishment of a principle ruinous to the liberties of the country. He should conclude therefore, with moving, "That it is a dangerous and unconstitutional measure for the people of this country, "to make any loan, subscription, or benevolence to the Crown, "to be used for any public purpose, without the previous "consent of Parliament."

Mr. Grey seconded the motion.

The Attorney General declared himself to be of opinion, that nothing

nothing could be more easy than a refutation of all that had been advanced by the Honourable Mover. He professed himself to be averse to all abstract questions. In 1788, no man had struggled more than he did to resist questions of that description; and he had no hesitation in saying, that he would constantly resist all abstract questions on the constitution. Upon that principle it was, that a few days since he had treated the discussion on the propriety of landing the Hessian troops in this country; and being fully convinced that the motion before the House was of a similar nature, he thought it his duty to give it his opposition, because, in a constitutional point of view, it had no relation to the subject which was the pretext of discussion. He observed, that what had been done by his Majesty's ministers, was not only not repugnant to the well-known principles of the constitution, but was actually supported and confirmed by the spirit, the letter, the text, and the comment of every law that existed. When he heard it asserted that night, that voluntary subscriptions, contributions, and benevolences, for purposes to be sanctioned by Parliament, were illegal and unconstitutional, he confessed his great astonishment and surprise. After these assertions had been so often repeated, he was extremely cautious not to state a syllable upon the subject, till he had fully and completely satisfied himself that his opinion was warranted by law and the sound principles of the constitution. When he recollected what had passed in the year 1782, and since that period; when he recollected what had been done in the year 1778, and the opinion of the great and illustrious character (Lord Camden) who took a particular and decided part in the proceedings of that period; when he recollected what had occurred in the year 1782, and the opinion of Lord Ashburton, who was then one of the cabinet ministers; when he recollected what had been transacted in the year 1759, from which period, and from all the other periods which he had mentioned, no human being could distinguish the proceedings that had taken place in the year 1794, on any solid, real, or substantial principle of discrimination (he defied the ingenuity of man to point out such a distinction); when he recollected the opinion of that great, noble, and illustrious character (the late Lord Chatham) upon precisely the same measure, to be an unparalleled panegyric upon the legal zeal, marked loyalty, and firm attachment of the subjects that had come forward with their voluntary contributions; when he recollected what had occurred in the year 1746, and the decided opinion delivered at that period, by that great, learned, and truly respectable character (Lord Hardwicke), who took occasion, in
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passing sentence upon the rebel Lords, to declare that he held the opposite doctrine to be the height of *presumption* and *ignorance*; and when he recollected, that, in confirmation and corroboration of this opinion, were to be added the clear and distinct sentiments of the Twelve Judges of England, together with the sentiments of the Master of the Rolls; he was astonished and surprised beyond any thing that could possibly be imagined; nay, he was led to suppose that he had totally mistaken the whole history of the country. The Honourable Gentleman considered the Petition of Right to be a very solemn declaration. And when he recollected that the celebrated Lord Coke had a hand in the composition of that Petition, and yet had left this case, as it was stated, totally unprovided for, it was a matter altogether astonishing, and utterly unaccountable. But he would refer all Gentlemen, who were doubtful on the subject, to the facts recorded in history.

He would first state the facts on which it could be asserted that the question arose; and, in the second place, he would put it to the consideration of Gentlemen, whether the proposition that had been attempted to be made out by the Honourable Gentleman, could possibly arise out of the facts, or whether that House could come to a resolution, aye or no, upon it? A great deal had been said on the memorandum of the minister sent to the Lords Lieutenants of counties: On that paper he was ready to say that he had not been consulted; if he had, he should have told the minister—"Send it." If that paper was an improper one, then all Politicians, Parliament, Lawyers, Judges, and all bodies of men, from the earliest time down to the year 1782, had acted under a misguided judgment; For be it recollected, that this memorandum, or paper, or let it be called any thing that Gentlemen might be pleased to call it, contained nothing but a sketch of a plan, the whole measure of which was hereafter to be submitted to Parliament, before any thing was even proposed to be done upon it. And here he would set out with this point, as established upon a principle not to be disputed, that any man who asked for a guinea's worth of labour of another, asked for a guinea: No man would tell him, that he who asked for the service of a soldier, did not ask for the value of that service.

The plan supposed that corps were to be raised independent of the force, for the raising and maintaining of which Parliament was to pass a vote. Then it was stated, that such measure was illegal and unconstitutional—And why? Because a Bill was to be brought into that House, very nearly similar to, at least with very little verbal difference from, a Bill that had
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been brought under the same circumstances into the House in the year 1782.

He would next proceed to argue upon the cases that he had alluded to. He would not begin with cases that occurred in the last century, but would commence with the latest precedents, somewhat inverting the order of arrangement followed by the Hon. Gentleman; and then shew, by retracing regularly the several proceedings, how the cases grew out of, and in what manner they were independent of each other. In the year 1782, as he had before stated, with the Lords Camden and Shelburne in the Cabinet, together with a Right Hon. Gentleman (Mr. Fox), who was inferior to neither in talents or abilities, Lord Shelburne, then Secretary of State, had written a letter to the Lords Lieutenants, Mayors, and Magistrates in several parts of the country, stating, "That his Majesty had commanded him to express his Majesty's firm reliance on the spirit and loyalty of his people, that they would at this season of difficulty use their best endeavours to give equal proof of their attachment to their Sovereign, and to the safety of the state, and that preparations should be made for the defence of the kingdom; for which purpose he had sent to them a proposition for augmenting the force of the nation: That his Majesty commanded his Secretary of State to request they would take this plan into their immediate consideration, and to report to him whatever might occur to them as necessary to carry that plan into effect, to answer the purposes for which it was submitted to them." This was an appeal to the loyalty of his Majesty's subjects in the month of May 1782, under the auspices of the administration of that day. Most unquestionably this measure proceeded on the most natural and constitutional principles. It was neither more nor less than an appeal to the zeal, the loyalty, and attachment of the people. It was a plan to induce the various towns or corporations to raise a certain number of men at their own expence for the defence of the country; and it was not the least remarkable fact, that Parliament was not to provide one shilling for the maintenance of these extraordinary troops. The plan was dated the 11th of May 1782, and directed that the officers of the battalions should be raised out of the gentlemen of the neighbourhood: the arms, accoutrements, and ammunition, to be furnished by Government, *if necessary*. With this irresistible precedent, therefore, before him, he had no hesitation in maintaining, that the present administration were justifiable in the measure recently recommended, which he was convinced would be more generally adopted than those Gentlemen who so strenuously opposed it had any idea of. As to the legality of the measure, he

he declared (and he spoke from his knowledge of the law of England) that a man might give, spontaneously, any pecuniary or other aid to Government, in times of great emergency, without violating the principles of the constitution; and that he who gave ten pounds, or more, for that purpose, did not, in fact, present a donation to the Crown, as some Gentlemen affirmed, but gave it for the protection of that community of which he was a member. Hence he argued, that if it was lawful for his Majesty's ministers to accept of his own personal offer (and it was not likely that he should make any such offer), the following proposition must be admitted, namely, that were such a circumstance to take place, he would thereby be contributing to swell the purse of his Majesty exactly in the same degree as if he had given his Majesty a certain sum of money. He said, he would not trespass upon the patience of the House by reading the whole of this plan; he would only refer to the last clause, wherein it was provided, that the widows of those officers that might be killed in the service were to have *a pension allowed them for life*. What was this, but saying that these widows should have the money of the Public?

He desired to know upon what principle it was that his Majesty's ministers had proceeded to tell the Lords Lieutenants of the different counties, and the mayors of different towns, that the widows of such officers as might be killed, were to have the money of Government. That plan went to the raising and forming several corps without providing for them specifically. In alluding to that measure, he begged to be understood, not to mean any thing disrespectful to, nor to cast any stigma or reflection upon, the ministers who were the advisers and promoters of it. On the contrary, he applauded them, as it was what they ought to have done in circumstances that were similar to the present. The Right Hon. Gentleman opposite to him had sanctioned Lord Shelburne's letter in the year 1782, he was astonished how therefore he could condemn those at present in power for adopting what he himself had formerly recommended. If the plan of 1782 was justified by the necessity of the times, let not the Right Hon. Gentleman blame other ministers for following his example in similar circumstances. Besides the invincible authority of that Right Hon. Gentleman himself, he might come forward with the authority of the most eminent men at the bar. Lord Camden, whose principles of liberty no man could deny, entertained the same sentiments: Lord Ashburton, whose profound knowledge and comprehensive mind all had frequently praised, was also an advocate for the measure. Was it to be imagined that

that the venerable Earl of Mansfield, whose name was precious to posterity, would have suffered such a plan to have passed without censure, had he apprehended any danger? The opinion also of another great man, whose authority was as dear to him as any that he had mentioned (Lord Thurlow), corroborated the legality of the expedient.

If ministers then understood that the plan they had proposed was not rightly conceived by the people, and if they had imagined that they had misled individuals, it was their bounden duty to have come to Parliament for a Bill of Indemnity. That was not done in the year 1778, when several eminent and leading characters expressed not the least doubt upon the subject. In consequence of this plan being transmitted to many parts of the country, in 1782 there were several answers written to Administration. This circumstance took place in the month of May, and there was no Bill moved for by the Administration of the day till some time in June; a period at which all the letters that had been sent in answer to this proposed plan were in their pockets; and till the effusions of zeal, affection, loyalty, and attachment of the country, were visibly demonstrated. It was after this period that a company of cutlers at Sheffield, and the mayor of Yarmouth, had given in their answers; the former, that corps would be raised, and that the expence would be defrayed by subscription; the latter, that for certain reasons specified, the town of Yarmouth could not bear the expence. The mayor of Doncaster had also written to his Majesty's ministers, and informed them, that it was the opinion of a meeting there, that subscriptions were to be raised for the purpose of carrying this plan into execution. The mayor of Leeds had likewise written, and informed Government, that a sum would be raised for this purpose. The town of Sunderland stated they would contribute as much as would build two batteries. In the north riding of Yorkshire, 1070 men were raised and officered. The ministry also received a letter from the mayor of Cambridge, where persons of a classic and academic life resided, and who, of all others, were the least likely to prefer *arma togæ*, in which it was stated, that a corps would be raised, and that arms would be purchased, in order that Government might be put to as little expence as possible. Similar intimations were received from the counties of Surry and Suffex. There were two letters sent from Scotland, which stated, that they were so poor that they could not subscribe. From this it was clear that Administration had been understood to have solicited subscriptions, and that not one word had been said about that particular circumstance afterwards. Subsequent to this, a Bill was brought in, which stated not one word concerning the

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the money that had been raised, but made a provision for the widows of officers for life.

If he were asked whether the plan that was proposed in 1794, were legal and constitutional? he would answer, that, under similar circumstances, corps had been raised in 1782, and paid and maintained by voluntary contribution. The same thing had been done in the year 1778. At a meeting of merchants and traders it was resolved, that, in order to the better preservation of our American colonies, subscriptions should be set on foot for raising men for his Majesty, in such manner as to his Majesty should seem most expedient. A constitutional Alderman (Alderman Sawbridge) had on a former occasion voted levy-money, yet were such measures not termed dangerous and unconstitutional. But he was equally, he confessed, surprised that those who disapproved of subscriptions in the year 1778, to aid Government in repelling the enemies of the country, should recommend a similar measure in the year 1782; and then again, twelve years after that period, condemn the same plan in the year 1794. If it were dangerous, as had been urged, it was *de facto* a danger which they and their ancestors had "stared in the face" on many occasions. It was curious to observe how Gentlemen changed their sentiments, as it suited their own political convenience at the moment. Sometimes they reprobated innovation, and at other times they most earnestly recommended it. This political inconsistency demanded not his praise; and he believed all good subjects of these realms were of the same opinion. The bounties which had been frequently given to seamen by corporations, might, on the same principle, be said to be unconstitutional. If the one measure was illegal, the other was certainly equally so; and he could not agree with Mr. Sheridan in his remark, that when Gentlemen accepted of military situations on this plan, it was "giving them a sword with a diamond handle to it." He owned he did not like to hear these attempts made to alarm the Public, on points in which there was no real constitutional danger. Whatever the danger was, he would be bound to shew, that that danger our ancestors had looked in the face, even at the time in which the greatest pains were exercised, and the most refined virtues were used, to preserve the principles of the constitution pure and inviolate. The people of England, he said, loved the constitution. Leave it to them, and they would preserve and revere it. He was not wrapped up in his own opinion upon the subject. Very great and illustrious characters might be cited in support of this opinion; such as Lords Camden, Ashburton, Mansfield, Thurlow, and Hardwicke. Parliament itself might be said to have given its authority

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authority to this measure. In the year 1778, Mr. Wilkes moved for leave to bring in a Bill, which stated it to be a dangerous and unconstitutional practice to raise any money, loan, or benevolence for the King, without the consent of Parliament. At the same time a resolution was moved in the House of Lords, which stated, that such a measure was contrary to the spirit of the constitution, and against the letter of the law; but the latter part of this motion the Honourable Gentleman (Mr. Wilkes) had abandoned. And what was the result? Both the motions were negatived. This, he contended, was a most distinct opinion of Parliament upon the subject, and he saw no more reason for adopting the present motion, than for adopting those in 1778.

It was not, in his judgment, wise for Parliament to come to any resolution upon the question. But after an alarm had been created, it became him to go through the subject. He should betray the fair right of exercising his judgment, were he to agree with the construction that had been put upon the plan by the Hon. Gentleman (Mr. Sheridan). In the year 1759, money was raised for levying seamen, under precisely the same circumstances. He desired Gentlemen to distinguish that case from the present.

He declared he did not like to be debating on questions which introduced observations tending to hold out that the King's prerogative and the interests of the people were distinct and separate; nor did it become Gentlemen so frequently to contrast the word *People* with the word *Majesty*. He begged leave to remind such Gentlemen, that prerogative was vested in his Majesty, as the father of the people, and for the benefit of the people: But was it likely that the judges of the land, who were entrusted with the preservation of the best principles which the constitution vested, would give their opinion in favour of such a plan, if they had considered voluntary contributions to have been illegal and unconstitutional? Would they not have said that ministers ought to have gone to Parliament for a Bill of Indemnity? Did they say so? No. Was it likely that an eminent and illustrious character (Lord Hardwicke), whose memory latest posterity would revere, would tarnish his own character as a judge, when he delivered his opinion upon the occasion? These were his recorded words—"The rebels soon saw the King's subjects endeavouring to outdo one another in zeal, affection, attachment, and loyalty. They perceived that the merchants had assembled, and that all descriptions of men crowded in with liberal contributions beyond all former times." What reason had Lord Hardwicke to say any thing about the circumstance? That great character was not

content with merely saying that it was perfectly legal, and perfectly constitutional; but added, "notwithstanding what has been ignorantly and presumptuously stated to the contrary." Was it to be supposed that such a great character as he had stated, so totally mistook what had happened in the last century? The Mutiny Bill, and the Bill of Rights, had been referred to. What did the Bill of Rights state? That the raising and keeping a standing army within the kingdom in time of peace was contrary to law. There was no doubt about it. The Legislature, by the Bill, only meant, that when the consent of Parliament should be had, it ought to be had; but that prerogative was clearly vested in the Crown, and ministers were responsible for their exercise of it. He had also, as he had said before, to support him, the authority of Lord Coke, who was one of the persons that framed the Petition of Right, and who had decidedly given his opinion upon the legality of receiving voluntary contributions, by the sentence he passed on Mr. Oliver St. John, for writing against those voluntary contributions in 1615; and also what his opinion was upon the subject, might be collected from his reading on the statute of Richard III. which he intended to say something on hereafter. The Petition of Right recited the statute of Richard III. upon which Lord Coke had commented. That great authority concluded his comment with, *quod nota bene*, "if money is given with free will and consent, this is not prohibited by any statute."

The Attorney General cited a number of cases, one in particular in the reign of Richard III. who solicited a subscription in person. He said, to a widow, "What will you give me for the maintenance of the war against my enemies?" She said, "In faith from your lovely countenance you shall have 20l." He thereupon kissed her; and she immediately said he should have 20l. more. Mr. Attorney also quoted the sober declaration of all the judges in the reign of Queen Elizabeth, whereby it was ruled, "*that a free gift, or benevolence without compulsion, is lawful.*"

The Petition of Right provided that no man should be compelled to give benevolences against his will. Would the Hon. Gentleman infer from this, that the Legislature had left the matter so as to mislead posterity; and if so, would posterity have been willingly misled from the year 1617 down to the year 1794? He wanted to know, why the Hon. Gentlemen on the opposite side had suffered several of the Nobility in this country to raise companies at their own expence? He wished to know, why the East India Company had been suffered, during the American war, to subscribe three ships? or why a

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Noble Lord (Lord Lonsdale) had been suffered to *promise* a seventy-four, the name of which was not to be found in the list of the English navy?

The Attorney General declared, from the best view he had of the subject, and the utmost attention he could give it, the subscriptions in question were legal; but it was not wise to come to any resolution upon the subject. The measure itself stated the plan, which it was impossible could be carried into effect without the concurrence of Parliament. What he had humbly to propose was, that the right of the subject ought not to be condemned. If the Right Hon. Gentleman was convinced, that by this plan something hostile was intended to the constitution, he might impeach the advisers and promoters of it.

He concluded with saying, that he held it a duty incumbent upon him, from the situation that he filled, to move the *Previous Question*.

Mr. Powys maintained arguments similar in their nature, and founded upon similar principles. He thought the subject had a right to give what pecuniary aid he pleased, provided it were applied by Parliament for the benefit of the community. He thought however that the measure might have been brought forward in a better form. He declared he was not apprehensive of any danger; and would never be alarmed till he saw troops mustered without the consent of Parliament. He therefore seconded the motion of the Attorney-General.

Mr. Fox rose, and in substance spoke as follows: "Sir, I must confess that a more than ordinary curiosity had been excited in my mind with regard to something which fell from a Right Hon. Gentleman (the Chancellor of the Exchequer), who, on a former night, intimated something like a charge against me of inconsistency in my political conduct; which, upon a strict review of it, I have not been able to discover; and, from what I have heard this night, seems not to have had an existence. Two circumstances have further increased this curiosity, *viz.* who was to come forward to charge me with inconsistency, and what the inconsistency was, with which I was to be charged? I thought of the old plain saying, "that he whose house was made of glass should not be the first to throw stones;" and if that wise and benevolent principle of the Christian religion, "*let him who is innocent throw the first stone,*" was to be observed, I was at a loss on which side of the House to look for my accuser. If I looked on the bench near me, I did not think it probable, that he would be found amongst those Gentlemen who reprobated the employing of Hessian troops at Gibraltar and Minorca, but vindicated the

landing of them on the Isle of Wight. It would be strange indeed if it had been thrown by the Hon. Gentleman who seconded the previous question. I could not imagine that the charge of inconsistency, in political conduct, would be urged against me by a Gentleman who commenced his political career as the firm and unalterable advocate of a Parliamentary Reform, but who has since not only abandoned that cause, but has been its strenuous opposer in every shape in which it has appeared. I was pretty certain that this charge must come from some young Member, as a young Member would be the least liable to have the charge of inconsistency retorted upon himself. The contest for some time upon whom this duty should fall, seemed to lie between a young Member (Mr. Jenkinson), and the Learned Gentleman who made it, and who, though not a young Member, was young in respect of the transactions of which he has taken upon himself to speak. It would have been an object of amusement to have had a view of the divan, when consulting who was the fittest person to discharge this important duty. It puts me in mind of a ridiculous story, which I shall take the liberty to relate. An Englishman at an inn in France, being imperfectly acquainted with the language of the country, and having occasion for the assistance of a female servant, could discover no other way of expressing his ideas, but by calling for *La Pucelle*. The women of the house were in some dilemma on hearing this demand repeatedly enforced; and at length a girl of seven years of age was presented to the traveller, as likely to answer the description of the person he required; in conformity to this rule, the *virgin purity* of the Learned Gentleman (the Attorney General) was pitched upon to expose his own political prostitution and inconsistency.

"From a young Member of Parliament I expected perfect consistency, especially from a Member who had undertaken the charge of inconsistency against another.

"The Hon. Gentleman, who seconded and supported the motion moved by the Learned Member, is not so young a Member; he well recollects the circumstances which passed in the year 1782. I wonder much that the Hon. Gentleman, if he saw any thing censurable in the conduct of that day, did not fully and fairly condemn the measure. Did he do any such thing? So far from it, he was perfectly silent on the subject; he either saw nothing that could be condemned, or thought it too trifling for censure. In this circumstance it had the advantage over the measure that day adopted, for this he has declared not to be altogether to his mind, and that he has not condemned. I am sure, in Lord Shelburne's letter, he will not

not find the most distant allusion to any subscription. It was a circumstance that never entered the minds of any of those Gentlemen who composed the Administration of 1782. They had not an idea of the kind; and if any person had intimated that Lord Shelburne's letter had suggested such an idea, or circulated it abroad, it would have been matter of great surprise.

"The Learned Gentleman has asserted, that he who asks for money's worth, asks money. With this principle, in its full extent, I can by no means concur; if so, the impress of sailors is a mode which the King possesses of raising a supply independent of his Parliament. Is this the case? Most certainly not. It is a distinct prerogative vested in the Crown, arising from peculiar circumstances, and peculiar necessity, with which the other has not the most remote connexion. Lord Shelburne's letter was not a solicitation, it was not a request, nor even a hint at any contribution or subscription; and if any such have been entered into in consequence of that letter, they must have been of so trivial a nature as not to have made any impression upon my memory. This letter had merely for its object to take the advice of the people at large, with respect to the propriety of arming for the defence of their country. It was not intended to take the people from their several employments; he who pursued agriculture, was not called upon or compelled to abandon his plough, nor the artisan to lay down the implements of his trade: All that was wished for or expected was, that they should give up a few hours of their time to acquire a moderate share of knowledge of the use of arms, in order to render them in some degree capable of defence, in order to remedy that state of weakness which was well known to be the fact at that period, and to prepare them against any danger that might threaten them. There was no money asked, nor had any been received; had such an idea been started, sure I am that it would have been indignantly reprobated. Had the Chancellor of the Exchequer governed himself by the same principle (as I expected he would have done) in his measure of this day, instead of an opponent he should have found me one of his most hearty and strenuous supporters.

"It has been urged, that the measure in 1782 differed not from that which I opposed in 1778, supported by my Lord Camden and Lord Ashburton. I had, in the year 1782, the honour to be of his Majesty's Cabinet Council, consisting at that time of 11 Members, ten of whom had opposed the subscription of 1778. Was it likely that we should, directly after our entering into the ministry, adopt those principles in 1782 which we had with such firmness opposed in 1778? The Cabinet was composed of men to whom character was too valuable to trifle with.

with. Lord Camden and Lord Ashburton, men well acquainted with the law and constitution, were at that time in the Cabinet. The Marquis of Rockingham, though no lawyer, was a man who understood the constitution, and his greatest enemies will allow that he possessed firmness and consistency, that he had not that versatility of character that could make him act on principles, when in administration, opposite to those which he avowed when in opposition.

"I had also understood that there was something to be collected from my own speeches which would prove my inconsistency. Words are difficult to retain; but from recollection, I know of no constitutional doctrine that I ever advanced which I have yet abandoned. It is, however, somewhat surprising that this inconsistency of conduct, with which I am now charged, was not urged against me at the time when the matter was fresh in the memory of every man; but, after a period of twelve years has elapsed, an attempt is made to convict me of inconsistency, which at the time of the transaction itself was never thought of. Would it not have been natural for some Gentleman or other to have said, if any objection were made to the measure adopted in 1782, "You are now acting upon the identical principles which you opposed in 1778?" Was any such objection started? No, Sir, the objections were of a very different description. The danger of becoming an armed nation, like Ireland, was strongly urged; and the injuries committed by the volunteers of that kingdom were stated by a Learned Gentleman (Mr. Mansfield), whose talents and whose character I much respect; but the volunteers of Ireland, in my opinion, far from injuring their country, rendered it great and essential service.

"I have consulted the record of the debates of that day, the Parliamentary Register, which, though not entirely to be relied on, certainly is more to be trusted for what it contains than for what it omits, and gives the general line of argument, and the great principles advanced. In them I can find nothing which can brand me with the charge of inconsistency.

"The Learned Gentleman's cases and authorities have all been before produced, and very ably argued by a late Noble Earl (Lord Guildford) in 1778, but without convincing me of the legality of voluntary subscriptions, any more than the arguments of the Learned Gentleman did then. The authorities on the point of legality I admit to have considerable weight, but the inclination of my opinions is against them. Why the Learned Gentleman has pressed it so much I know not; perhaps it was from an eagerness to apply to me personally. The Learned Gentleman says, that I did not oppose the giving ships,

ships, and other private aids. He mentioned the offer of a 74-gun ship from a Noble Earl (Lord Lonsdale), the name of which is not to be found in the list of the navy of Great Britain; and other ships from the East India Company. These measures I did oppose, and that in my speech at the beginning of that session of Parliament. I opposed them, and censured them, because I considered every gift of that nature an injury to the constitution.

"In arguing the question of loyalty, the Learned Gentleman began with the latest precedents, from a hope, I suppose, that, after a legal manner, he could make the matter appear more clearly; but he seems to have been disappointed in his hopes; certainly the Learned Gentleman must have quibbled away his senses in the pursuits of his profession, or he could never have argued this point in the manner he has done. The precedent of 1782 he has contended to be similar to the present, and also to that of 1778.

"I shall here take the liberty of quoting the authority of a Right Hon. Gentleman (Mr. Burke), whose abilities all men must confess and admire, and whom for many years I had the happiness to call my friend; his opinion is clear and decided upon this head, in favour of that doctrine which I support. The Learned Gentleman contended, that the ground of argument used by Lord Ashburton and Lord Camden, in the year 1778, turned entirely on those contributions being left at the disposal of his Majesty. I remember the arguments of Lord Ashburton well, he confined himself to no such narrow system; he took the broad and general ground of objection to contributions in any shape. I remember, too, the arguments of Lord Thurlow, who certainly advanced many forcible reasons, which had considerable weight in my mind, though I concurred in opinion with Lord Ashburton; but the point for which he contended was, that contributions were legal and constitutional, when they came voluntarily from the bounty of the People, without solicitation on the part of the Sovereign.

"With regard to the donations given in the year 1756, they were no more than what were given last year to the troops in Flanders. As to the events of the year 1745, no man could endure that these should be quoted as precedents, unless his understanding was lost in the labyrinth of legal distinctions. The authority of Lord Hardwicke was entitled to great attention; but his opinion was delivered on a particular occasion, and in a time of great danger and necessity, after he had sat on the trial of the rebel Lords. Before the statute of Richard III. benevolences were taken, and it was there expressly stated, that

that "a man shall not give what he listeth;" he should not make voluntary gifts, because the example would be a kind of compulsion to others. The Judges, says he, had they done wrong, should have implored a Bill of Indemnity. How long is it since the Learned Gentleman became the advocate for Bills of Indemnity? A few days since he maintained a conduct and opinion widely different from this; he tells us, that, on the present occasion, he delivers an opinion, not because it is necessary to deliver an opinion on a great constitutional question, but because it is pleasing to many of those who are dear to him.

"On a former day, when another constitutional question was discussing, and when the Learned Gentleman supported the previous question, he said, he would not deliver an opinion. From this, may we not suppose the reason was, because it would not be so pleasing to his friends? and that his silence makes for us in one case, as much as his arguments make against us in another? Those two great palladia of British liberty, the Bill of Rights and the Petition of Right, which should never be mentioned but with veneration and respect, I hear this day mentioned with apprehension, lest they should be made use of as arguments to deprive us of some privilege or right; because the Bill of Rights is silent on the subject of voluntary contributions, on that ground voluntary contributions are held to be lawful; as well might it be said, that because it contains a declaration of the subject's right to petition the King, but is silent with regard to his right of petitioning the Commons, that therefore no such right exists. The Learned Gentleman has depended much on the constitutional authority of Lord Coke; but I wish at the same time he had quoted Sir Francis Bacon, a man of great talents and erudition also, though unable to withstand the test of corruption. In Lord Coke's political conduct, as much deference to his opinions as I am willing to declare due in other points, he does not seem to me to be quite consistent: In the case of Mr. Oliver St. John, whose expression I shall use, because forcible and well founded, who, speaking of contributions, says, "Contributions never can be voluntary; some giving through pride, others through fear, and some from interest." Sir F. Bacon, in his Life of Lord Coke (though it is not very fair to take the account from Lord Coke's rival or enemy), says, that when the case of St. John was first represented to him, he delivered, as his opinion, "that all gifts, however voluntary, were illegal;" but when he came to judge Mr. St. John in the Star Chamber, he changed that opinion; and, at all events, the sentiments of Lord Coke, that go to support this doctrine,
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are taken from his posthumous works, which never underwent a revival; possibly, if they had, would never have appeared to the world in the shape in which they now appear.

"Let me ask, however, whether these contributions are innocent with regard to the constitution? Are they attended with no evil consequence? Might not a great party, or great power, joining with the Crown (allowing this right of private contribution), enable the Crown to carry on a war contrary to the opinion of Parliaments, or to undertake measures still more destructive to their liberties? It is certain, ministers could be found to urge such measures, and assist in their execution. This argument has been urged already by my Hon. Friend (Mr. Sheridan), and still remains unanswered. The motion, it was said, did not apply to what happened: I shall state the case as it appears to my understanding. What has happened? The executive government have issued a request, or requisition, stating, that it would be desirable to enter into subscriptions for certain purposes; and what is my Hon. Friend's motion? That such conduct is dangerous and unconstitutional. Does not this go to the very point to which it ought to go, *viz.* to censure his Majesty's ministers for misconduct? Gentlemen say, if there be misconduct, why do you not impeach? I am not for impeaching ministers for every trifling offence; an impeachment is to procure punishment for great offences. But were the present voluntary gifts? No, they were worse; they were solicited benevolences. The Secretary of State, in the name of the King, wrote letters to the Lords Lieutenants of the counties, desiring them to take the matter into consideration: Was not that a request from the King? The only relation between the King and his subjects was, that he was to command, and they were to obey. When the King requests from his subjects individually, he puts himself in a situation which lowers his dignity. Was it to be supposed, that when an individual, placed at such an immense distance above all others, asked a request of any of them, that they could refuse him? In applications of that kind, were we not men constrained, and was it not necessarily a sort of compulsion? Might not ministers advise his Majesty to mark those who should refuse his request? That request I maintain to be nothing less than a command: I think such a request inconsistent with the dignity of a King, and incompatible with the situation of a subject. Those requests under which subscriptions have been opened in different counties, are tantamount, or at least very near in resemblance and effect to a command; because they place the subject in such a situation that he cannot well refuse a compliance. Wherein consists the utility of the mea-

sure? Will it be said that it is not a tax upon the poor as well as the rich? I know of no way by which we can tax the rich, that it will not ultimately fall on the poor. It is vainly imagined in France, that, by depriving one great man of his dishes of silver and gold, and another of his money, that this will be of advantage to the poor: No, Sir, these are the means by which the poor are maintained. The luxuries of the rich are a principal medium of their support; and if the rich man gives up part of his property in voluntary contributions, he must deduct so much from his expences, which the poor must ultimately feel. In short, a system of taxation that will affect but one class of men is a thing impossible to invent, because every system of taxation, however modified, will eventually operate on all ranks of people.

“ Let ministers attribute what malice they pleased to those who detested the war; let them, if they pleased, say that the French, upon landing in Kent, would go to attack Walmer Castle, and pass by the mansion of one of his (Mr. Fox's) friends; that in marching through Suffex, they would attack Goodwood, and leave Arundel Castle behind them; let them attribute any motives to him and his friends, he trusted they would always be found ready to defend their country in case of actual danger, as they were then defending the constitution. The present impolitic measure had a clear tendency to awaken those mutual jealousies and animosities which were said to arise from a dangerous democratic spirit prevailing throughout the country. It had a tendency to discover what the political sentiments of men were; because, if a man should refuse to subscribe, it would be said that he was disaffected to the constitution. And, besides the impolicy of the measure, was not its inutility evident? He was persuaded that not much more than 300,000*l.* could be raised by it. Why then should ministers occasion these differences? Is it for the sake of those who have lately joined their standard, in order to exhibit with what facility they would be brought to contradict all those opinions they had for years maintained? When on one side an opinion exists, that those on the opposite side will take every opportunity to encroach on the rights and liberties of the subject, and they in return think that they are Jacobins in principle, and wish to subvert the constitution? But let those opinions be what they may, in case of invasion, are not we all equally apprehensive of the danger, and equally anxious to avert it, unless they also suppose that the National Convention keep a list of the minority, and upon coming here would preserve their lives and their properties inviolate? That I shall be this night left in a minority, I have but little doubt, as I had it yesterday from

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from good authority, being so told by a Lord of the Bedchamber at the meeting in the County of Surry (Lord Onslow); and Lords of the Bedchamber, Sir, are notorious for being wonderfully sagacious animals at smelling out a majority in either House; therefore I have the less reason to regret the moving of the *previous question*. But, upon the whole, I consider this measure of raising money, by public contribution, so impolitic and unconstitutional, that were a Bill brought in similar to that passed in the reign of Charles the Second, authorising his Majesty to receive voluntary contributions, and limiting the sum to be so received, I should oppose it with all my power. Parliament had shewn itself ready enough in voting supplies, and more danger was to be apprehended from its profusion than its parsimony. It had given away thirty or forty millions a year: Why, therefore, harass individuals with such an application, when all parties were ready and disposed to vote, in a constitutional way, every requisite supply, and personally to stand forward in defence of the kingdom, if such exertion became necessary? Let us then adhere to that wise custom of our forefathers, as the best preservation of our independence, the sole right to grant money to the Crown. Suppose the House of Lords were to offer collectively out of their private pockets to contribute to the exigencies of his Majesty, would the House of Commons endure it? On the contrary, would they not spurn at the proposal? Even in the less enlightened days of Henry and Edward you would not suffer it, and will you at this period suffer that right to be encroached upon at every county meeting?"

Mr. Windham said, as much curiosity as the Right Hon. Gentleman had professed to have felt, to hear by whom the charge of inconsistency would be brought against him, an equal share of curiosity he had himself felt to hear what sort of answer the Right Hon. Gentleman would make to that charge. The Right Hon. Gentleman, conscious that no good answer was to be made to it, had rested his vindication, not on the merits of the case, but on a general appeal to the great authorities with whom he had acted in 1782.

Mr. Sheridan, he admitted, had marched up fairly to the question, and stated it in a manner plain and distinct; so much so, as unfortunately for him to overthrow his own position, and render his statement too weighty for his argument; for if any one before had a doubt on the subject, he was sure, after what had fallen from that Hon. Gentleman, he would feel himself perfectly satisfied and at ease. The Hon. Gentleman had argued the question on two main grounds: First, on the broad constitutional doctrine, "That all applications

for money should come to Parliament, whose duty it was not to suffer that privilege to be eluded." Secondly, "That forced loans, usually called benevolences, are illegal." These two positions Mr. Windham wished to be kept distinct, and not to be confounded, as they frequently had been in the course of the debate; arguments having been founded on one, and conclusions drawn from another. The first of these positions, as a general doctrine, he allowed to be sound and unimpeachable; but, like every other general doctrine, it must be allowed that it was subject to exceptions, which, if denied, would carry the position much farther than its own advocates seemed to be apprised of. The Hon. Gentleman had taken an extreme case, and asked if they would allow an opulent party to supply the Crown in a manner which would destroy the necessary controul of Parliament. If they said no, and recognized the general principle, the Hon. Gentleman inferred that all grants to the Crown, however small or temporary, were equally bad. This mode of arguing was, however, a double-edged sword, in the use of which the Hon. Gentleman would not gain much; for it might be argued back on him, that as it was obviously useful, and in fact had often been practised in some cases, therefore it was good in all. As the Hon. Gentleman admits no modification, and contends that all cases must be equally bad, or equally good, we have as great a right to avail ourselves of this argument as he has. This strict and universal argument, however, though in general well adapted to questions of law and science, is ill adapted for politics, every question of which is modified by circumstances. To argue from the greater to the smaller case, or *vice versa*, is on this subject equally improper. The proposition which was brought before the House, was one of those that could neither be universally affirmed or universally denied. The Hon. Gentleman knew no medium, nor would admit of any. He went upon the modern refinement of applying every thing to general abstract principles. Though this was a question of political wisdom, and therefore not subject to the strictness of positive law, yet the Hon. Gentleman had argued it as a legal question. His opinion upon the subject was, that when the people do not cry out against subscriptions, no danger can be apprehended from them. When they did express their fears, then it would be evident that the contributions had become compulsory, and it would then be time enough to make declarations against the legality of them. He disliked abstract declarations, unless there was real danger, or the appearance of the approach of real danger. Would any man in his senses express a fear that what was doing in this country had any tendency

dency to revive those compulsory benevolences, and forced loans, which the people had long ago exclaimed against, which had been destroyed, and almost forgotten; the very seeds of which had been exterminated never to sprout up again? No man could entertain such an apprehension. The Hon. Gentleman had formerly been of opinion, that the constitutional controul of the House of Commons was not in its power of refusing supplies. He now argued, that the subscriptions tended to destroy a controul, which, according to him, did not exist. It had been reported of himself, Mr. Windham said, in a commercial city (that which he had the honour to represent, and probably the report had been industriously circulated there, because it was the place in which the imputation of such a sentiment was most likely to hurt him), that he had said, speaking of commerce and the constitution, "Perish commerce, and let our constitution live!" He had never expressed that sentiment, nor did he wish ever to be obliged to make an election between our commerce and our constitution. If he was called upon to look at the danger, among all the possibilities of danger to the constitution, the revival of forced loans from the subject was that which appeared the most remote. He even doubted whether the possibility had ever entered seriously into the mind of any man. What was the difference between the present measure and the case of 1782? In 1782, the Secretary of State sent letters to the Magistrates to ask their opinion on the propriety and the mode of arming the People. This was a very proper and a very reasonable measure; and so was what the Secretary of State had done now. The Right-Hon. Gentleman said, there was no mention of subscription in the letter of 1782; so much the worse. If there was not the word, there was the thing; for how were men to be armed without expence? To attempt making a distinction of this sort was more like the quibbling of a lawyer than the argument of a statesman. The letter of 1782 so clearly implied expence, that in a mercantile transaction where the expence incurred was to be repaid, he believed it would have been held binding. If the troops were granted, was it not implied in the grant, that the means of establishing and supporting them would be also granted? The troops could not be raised without money. When, therefore, a Bill passed for raising so many troops, it was necessarily implied in it, that a competent sum should be provided to maintain them. In affairs of commerce, if a merchant directed his agent to procure him certain commodities, without saying any thing about money, it would be understood that the principal was to make good the sum which the agent might expend. Seeing no violation
either

either of the spirit or the letter of the statutes that had been referred to, apprehending no danger from the precedent, nor fearing that voluntary subscriptions could ever lead to the revival of compulsory subscriptions or forced loans, he should have been ready to vote against the motion had that been necessary; but the opportunity being offered, and chusing rather, as he had done on the first debate on the legality of landing the Hessian troops, to avoid deciding on an abstract principle, he should vote for the previous question.

The Right Hon. Gentleman (Mr. Fox) had thought proper to allude to his conduct in respect to the subscriptions during the American war. He did not allow this to be a fair and candid way of reasoning, to *lay out* for the votes of Gentlemen, by reproaching, or threatening to reproach them, with inconsistency, without considering at all the merits of the case, and the different circumstances of the moment. Valuable as political consistency was to his character, he would not, if he had been inconsistent, sacrifice truth to it. He would always act according to his last consideration of things, whatever opinions he might have formerly given. Least of all was he desirous to be consistent in persevering in error. At present, however, he did not feel himself under any embarrassment or difficulty whatever, nor apprehend that he could be convicted of inconsistency. He certainly had opposed the subscriptions in 1778, for carrying on the American war, because he thought the war unjust, and because he wished that America might not be overpowered by this country. His love of his country, great as it was, had yielded to justice. He was afraid that the war might have become popular by the subscription, and that troops would have been raised to oppress the Americans. He wished to throw every possible obstacle and impediment in the way of that war, and for that purpose only he had opposed the subscriptions. The arguments of the illegality, such as they were, used to-night, were then urged and pressed upon the Public; and perhaps he might have taken them up, as he was right in making every objection, good or bad, to a measure which he disapproved. He would admit, that if the Right Hon. Gentleman felt concerning the present French war, as he had felt upon the American war; if he thought France had justice on her side, and that the cause of human nature was in danger; then he (Mr. Windham) confessed, that the present opposition to the voluntary subscriptions was just on that principle. He was not certain that he had stated any thing on the subject of subscriptions in 1778 farther than doubts of their legality. That it was a doubtful point, appeared to him at the time to be a sufficient ground of argument.

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The Honourable Gentlemen, who had lately, as they thought, supported the privileges of the people, arrogated to themselves the titles of the only champions and guardians of the Constitution, because they opposed the royal prerogative. They desired all who loved the Constitution to fly into their arms. He knew not by what exclusive claim they assume the title, nor what particular occasion there was for their guardianships. He recollected a good old Spanish proverb, which was not inapplicable: "Take care of me against my friends, and I'll take care of myself against my enemies." Yet these Gentlemen, the redoubted champions of the Constitution, who seemed to feel pain *if the winds of heaven visit it too roughly*, were always ready to expose it to the savage knife of every reformer, to remove the old stays and props of the Constitution, meaning to *lop off its limbs*, and supply their place with *wooden legs and patent springs* of their own manufacture. If they were permitted to lop and reform as often as they proposed, the old friends of the Constitution would not know it again. On what did Gentlemen found this proud claim? They were not entitled to call themselves defenders of the Constitution, merely because they opposed the prerogative of the Crown; for that was a part of the Constitution; and as essential to the liberties of the people as any other. Besides, the constant opposing of prerogative was not a sufficient characteristic to mark a patriot; it was at best but an equivocal claim to patriotism.

It was not a favourable circumstance to the Honourable Gentlemen, that they were always joined in their constitutional exertions by a set of men, whose wild and frantic ideas of democracy, if brought into practice, would accomplish universal destruction. The Honourable Gentleman (Mr. Sheridan) had not relied much on the strength of his proposition, or he would not have gone to such a variety of topics to prove it. If subscriptions were clearly unconstitutional, where was the use of taking up so much time to prove their dangerous tendency, considered abstractedly? The objection that persons who did not subscribe would be looked upon as disloyal, had little weight. Many would not contribute, though they were much attached to the Constitution; they might love their money better than the cause; a circumstance not inconsistent with a considerable share of loyalty.

Gentlemen on the other side would be judged of by those with whom they associated, by those whom they resembled in conduct. In what company were the Honourable Gentlemen and their motion this night? In the year 1745, Sir John Hynde Cotton, and others who were known to be Tories, and favour the views of the *French and the Pretender*, had held precisely the

the same opinions of subscriptions. They too, after the King's troops were defeated, even when the rebels were at Derby, and when there had been a general alarm in London, and in all the kingdom, affected to ridicule the danger, just as the Opposition of this day had uniformly done since the commencement of the war. The other party were the *alarmists* of those days. Sir John Hynde Cotton and his friends ridiculed them for their fears. Mr. Windham concluded with repeating his expressions of abhorrence of abstract declarations, when there was no real danger of abuse of power.

Mr. Fox rose to explain. He said he was sorry to hear, what he had taken some pains to render clear, mistated. The Circular Letter, written in 1782, had neither the word subscription, nor was it implied in it; besides, he could positively declare, that he never had the smallest idea of a subscription being commenced; nor had he heard of any persons actually subscribing. Why, he asked, when he arraigned the conduct of the minister in 1783, was he not upbraided with this impropriety? Why, during the course of debate, at that time and since, was not the subscription, if any there was, alluded to? Surely, when it was fresh in mens' minds, was the most likely time for insinuations of suspicion to be thrown out, if ground for any could have been seized upon. Was it ever mentioned by any Member? Was there even a debate on the subject, as there was at present?—No. He was convinced, could the Hon. Gentleman, who succeeded him, discover that he, or those with whom he had acted, had suggested such a plan, that it would not be passed in silence, or at least totally forgotten.

Without claiming any credit for candour or consistency, he might at least expect so much for common sense, as to be supposed incapable of blaming in the December following, the subscriptions proposed by Lord Shelburne's administration, if he had approved of similar subscriptions so recently before.

Sir James Sanderson read an account of a subscription entered into by the citizens of London, for the use of his Majesty, and the better defence of the country, in the time of the late Lord Chatham, when that distinguished character was Secretary of State. Lord Chatham approved of the city's subscriptions at the time, which was to him a sufficient proof of their having been legal and constitutional. Sir James concluded with observing, that he thought it constitutional to countenance such a measure, and would give it his support.

Mr. Sheridan said, at so late an hour, when he and the House must both be exhausted, and after the very imperfect manner in which his former arguments had been answered, he should have had the less occasion for troubling the House at

any length, were it not for the extraordinary speech delivered by the Honourable Gentleman who so recently sat down. There was a time when it would have been with the most sensible regret that he could have heard any improper motives ascribed to him from that quarter. He had however that day heard him without emotions of that nature. Indeed, since the Honourable Gentleman had changed the line of his political conduct, and adopted a new party, he had shewn himself so wonderfully dexterous in the art of enveloping his arguments, his principles, and his attachments, in the most impenetrable mazes of obscurity, he had so blended his new-born zeal for Administration with expressions of the tenderest affection for his Right Honourable Friend (Mr. Fox), that it was not till the present night that he had unequivocally spoken out: As plain dealing was a virtue in politics, as well as in other points, he begged leave to return the Honourable Gentleman his thanks for his sincerity. The Honourable Gentleman had warned the Members of Opposition of the improper company with which they had associated, and ridiculed their pretensions of being the exclusive champions of the Constitution, insinuating that the defence of it would be safer in other hands; but the Right Honourable Gentleman ought surely to recollect, that they were the same company, and the same champions, with whom he, till very lately, acted in apparent union, and in perfect confidence. In order to stigmatize his old friends in the most forcible manner, he had drawn an insidious parallel between their motives and those which actuated Sir John Hynde Cotton, and other Jacobites, in the year 1745, who could discover no danger in the approach of the Pretender, because they were interested, and desirous of his success. If, in truth, the Honourable Gentleman knew, and really believed, that there were such persons among the present Members of Opposition, why did he not honestly and manfully stand up and proclaim them, instead of dealing in skulking and insidious jeers? Did the Honourable Gentleman mean to represent him as a favourer of the French?—[*A loud cry from the Ministerial side of Hear! hear!*] Was he to understand by this cheer, that he had rightly understood the insinuations of the Honourable Gentleman?—[*The cry of Hear! hear! repeated.*] If there were any Gentlemen in the House, who thought that he was acting from motives of affection to the French, he desired him boldly and manfully to stand up, and declare his suspicion.

[*Mr. Yorke immediately rose, while several Members were calling Mr. Sheridan to order. The Speaker demanded of Mr.*

Yorke, whether he meant to speak to *order*; and no answer being returned, Mr. Sheridan proceeded.]

The Honourable Gentleman, he said, who, by his rising, interrupted the scope of his observations, could not be supposed to rise without some motive, and as he had accepted his challenge, he thought him too fair and manly to retract any intention he might have had in so doing; he was glad to find him take time for deliberation, which would perhaps enable him to digest his purpose better than he might have done upon the sudden. When the Hon. Gentleman, to whom he was replying when he had been interrupted, talked of associates, and sneered at the company in which Opposition acted, he should have reflected on the sort of company he had himself got into, and taken a view of the strange *phalanx* with which he was united. He could not well forget the triumph which he used to feel in exposing the unconstitutional principles upon which the present Chancellor of the Exchequer came into office, in unmasking his artifices, his subterfuges, and high prerogative principles; in representing him as an object of distrust and jealousy, and holding him up to the contempt and derision of his country, by stripping him of his assumed robe of purity, and shewing that all beneath was filthy dowlas. In that filthy dowlas he had suddenly discovered something extremely splendid and engaging; for, although the Honourable Gentleman had changed, the minister had not. By a change of sentiment, or rather of side, as extraordinary as unprecedented, the Honourable Gentleman was now found the ready advocate of every measure of Administration, which certainly deserved the same character which he formerly ascribed to it. "With uncommon warmth he extolled those friends with whom he lately associated as the champions of the Constitution; but why has he supposed that this side of the House are not as much champions for liberty and the Constitution at present, as when he co-operated in their exertions to maintain the principles of freedom? He cannot act with them, he says, when he reflects in what company they are leagued: He declares, that this is a trying time for the Constitution: it is so; he should therefore join in endeavouring to preserve it from the dangerous wounds it is receiving. Why then does he continue his support to the Gentleman opposite (Mr. Pitt)? What is there in that Right Honourable Gentleman's conduct which should entitle him to his confidence, or warrant his apostacy? Is it when he is introducing foreign troops into the country, and bearing down the privileges of Parliament, that he feels a peculiar impulse to continue his support?"

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The Honourable Gentleman doubtless thought he had a great advantage in repeating his (Mr. Sheridan's) objections to stopping the supplies in the year 1784; but, on consideration, he would find that this made directly against his purpose, and that the Honourable Gentleman had forgotten the principles which he (Mr. Sheridan) had asserted in 1784, as much as he had forgotten his own. He had argued on that occasion, that, when to refuse the supplies was only to withhold from the Crown what none but the Crown would suffer by withholding, the power of the purse in the House of Commons was not a chimera; but that, when circumstances were so changed, that the supplies could not be refused without the most imminent danger to the country, nothing but a crisis the most momentous and alarming could justify withholding them, and consequently that the power of the purse was a much less efficient controul than formerly. Such a crisis might possibly occur: And surely it involved no inconsistency to say, that the more cautiously this remedy ought to be resorted to, the more carefully ought it to be kept in condition to be effectual when occasion called for it. If it was not effectual, it would be no more than a chimera. At the time alluded to, all that the House of Commons could withhold was the Land and Malt Tax, by refusing which, the Crown would feel no personal distress, though it could not fail to operate most injuriously upon commerce. It would therefore be nugatory to stop the supplies to the King, by which stoppage in fact the King would be no loser. He also considered that such was the state of the public mind at that time, and such the disposition of certain persons to avail themselves of it, that it was much to be apprehended the Crown would be able to find supplies in the same unconstitutional manner which he was now arraigning; and then a principle, or at least a precedent, be established of infinitely more danger than any that could result from granting the supplies. From this it would appear, that there was not the smallest variance between the principles which he held at that time, and those which he maintained at present; for his advice at that time was given upon grounds of prudence and expediency. Indeed, he must consider it as some degree of hardship, that he was thus called upon a second time to answer those arguments which he had already anticipated in his opening speech.

Mr. Sheridan said, if there was any part of his conduct through life in which he felt himself free from unjust imputation, it was that of inconsistency in his political principles and attachments. How little the Honourable Gentleman could boast of a similar character, would shortly appear from his ex-

pedition to Norwich in the time of the American war. The Honourable Gentleman had said, that if he opposed the voluntary subscription then proposed, upon the ground that it was illegal and unconstitutional, it was because such arguments *were going* at the time, and that his detestation of the American war superseded the love of his country in such a degree, that he could not wish success to the British arms when engaged in such a cause. He should have been more surprised at his thus forgetting a fact which occurred some years ago, if the failure of his memory had not been so lately exemplified, in his forgetting also his former principles and attachments. In order to refresh his recollection, he must be under the necessity of stating to him what their former intimacy and friendship enabled him to do; that all his conversation at that time expressed the strongest conviction of the illegality of these subscriptions, and that their illegality, and unconstitutional tendency, formed the basis of those arguments he used to the meeting which he attended at Norwich. He did injustice to his own character, by saying, that he employed those arguments because they were going at the time; for it was not to be supposed that a grave and able man, employed upon a serious and important expedition, would use his argument as one that was going, as if he met it on the road and had taken it into his post-chaise, or picked it up by the way, like blackberries upon the bushes. He did not believe the argument to be true: Whatever might have been his opinion or his wishes respecting the war, he had no right to go into a popular meeting and mislead it by false law as well as false logic.

Mr. Sheridan repeated, that all supply given to the Crown, whether great or small, except such as was given by the House of Commons, was illegal and unconstitutional. In politics, as well as science, the grand principles were, he said, clear and absolute; it was only the subordinate parts that were left to discretion. Did Gentlemen suppose, that a general principle was overturned by a set of petty deviations? Such deviations ought only to be more carefully guarded against, as they were too apt to be drawn into precedents. He perfectly agreed with the Right Honourable Gentleman, that there were few political rules so strictly to be adhered to, as to preclude all deviations in cases of extreme emergency; but that emergency must be found to exist, as in the year 1745, before the deviation could properly be justified. There were also several maxims, an occasional deviation from which might be attended with no very serious consequences; but there were likewise some fundamental, seminal, and vital principles, an infraction of which, *like flaws upon a diamond*, always debased, and frequently destroyed, their

their value. Of this description was any pecuniary aid given to the Crown through any other medium than that of Parliament; for whatever might be its avowed purpose, it was liable to be employed in corrupting the House, and overturning the liberties of the people.

He had already anticipated the use that would be made of bounties, given by corporate and other bodies, to encourage the levy of troops which had been voted by Parliament. This practice, whether legal and constitutional, or not, was constantly connived at by Parliament: First, because it was useful from the encouragement it offered; and secondly, because it was not likely to have any bad effect; for it was no free gift, nor did the Crown or its servants ever handle a shilling of it, it being always applied to the specific purpose for which it was given, under the direction of those who gave it. The offer of a 74-gun ship by a Noble Lord had been adduced. He was not so rigorous as to wish to punish a promise that was never fulfilled. The gifts of that Noble Person to the Crown were of another kind—They consisted in Members of Parliament. He must, however, do the Noble Lord, to whom he had alluded, the justice to own, that he sent the House a much more valuable present in the Right Honourable Gentleman * who now possessed their confidence.

He contended that ministers could have no other purpose in view, in exciting this subscription, in what he represented to be a clandestine way, but to assert this high prerogative in the Crown. It was impossible that they could expect any considerable assistance from the contributions: They knew that the county of Surry had declared the subscriptions to be unconstitutional, and they suffered them to go to other counties, crippled with a doubt of their legality. If the subscriptions promised such a resource as was pretended, why not remove all difficulties at once, and declare them legal? Not a word had been said to overturn his general doctrine, which was of the utmost importance to the Constitution. It was something however, that it was not to be negated, but got rid of by a previous question. Upon the whole, he was of opinion, that ministers would find more subscribers that night to the motion of the previous question, than they were likely to find towards defraying the expences of the army.

Mr. Sheridan replied to the argument of the Attorney General. In contending for the legality of the proceedings, not

* Lord Londale, at that time Sir James Lowther, first returned the present Chancellor of the Exchequer to Parliament, as representative of the Borough of Appleby.

daring to meet it with a direct negative, which he knew would not accord with the sense of the country in general, the Learned Gentleman had taken refuge in moving the previous question. He had quoted, indeed, voluminous authorities of lawyers, living and dead: Lord Bacon, Lord Coke, Lord Hardwicke, and Lord Ashburton, of the dead, were summoned in support of the doctrine; and of the living, Lord Camden, as well as Lord Thurlow, who seemed peculiarly the god of the Learned Gentleman's idolatry, were summoned to appear. He would however contend, that these illustrious men did not actually hold the opinions that had been imputed to them; and a note of Lord Hardwicke's was found, which expressly contradicted the extra-judicial judgment which on another occasion he had pronounced. The Learned Gentleman, finding himself unable to defend his position by any direct authority in point, was reduced to have recourse to some *et tu quoque* observations applied to a Right Hon. Friend near him (Mr. Fox), which could never be reverted to but in default of better arguments, and which had been sufficiently done away in the speech of his Right Hon. Friend. In the whole range of his reasoning, the Learned Gentleman contented himself with barely mentioning the statute of 13 Charles II. but wisely abstained from any observations upon it. As a *succedaneum* for this, however, the Learned Gentleman stated with an emphatical *quod nota bene*, that Mr. Wilkes, who, in the year 1778, moved a resolution similar to that then before the House, upon consulting legal authority, had altered his opinion. How far the authority of law had influence with that worthy magistrate, would appear from an extract, which he read, of a conference between Mr. Wilkes and some other persons respecting Gentlemen of the long robe. From this it was evident, that Mr. Wilkes held "that, of all men, lawyers are seen to be the least qualified to decide on matters of Government; considering the constitution as a piece of clock-work, the lawyers, like under-workmen, were capable of constructing a wheel or a single link of a chain, but were totally ignorant of the principles which set the machine in motion." In order to draw the attention of the Learned Gentleman to this, he would also add—*quod nota bene*. In opposition to the authorities on the other side, he quoted that of Mr. Hargrave, the commentator upon Lord Coke, to whom he paid high compliments, and whose opinion entirely corresponded with his own.

Mr. Sheridan contended, that the admission of this new doctrine, connected with the other doctrines that were avowed upon the landing of the Hessian troops, would render a new Bill of Rights necessary. An Hon. Gentleman (Mr. Powys) had,

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had, he observed, said that voluntary subscriptions were legal, but could not be applied till appropriated by Parliament. This was indeed a most whimsical check—When the Crown had got the money, and the troops raised by it, then the Honourable Gentleman would talk of appropriating. Mr. Sheridan concluded with declaring, that so far was he from wishing to impede any plan for the defence of the country, that if great expectations were formed of these subscriptions, he would agree to make them legal for the particular occasion.

Mr. Yorké said, when he heard such challenges as those given by the Hon. Member (Mr. Sheridan), he thought it disorderly, and always felt an irresistible impulse to call such a Member to order. He knew it was unparliamentary to ascribe improper motives to any Hon. Gentleman in that House; but if a number of Gentlemen wished to shew themselves favourable to the French cause, as those who wished success to the Pretender did in 1745, he thought they would adopt a line of conduct very similar to that which had been shewn by the Hon. Gentleman (Mr. Sheridan) that day.

The Hon. J. S. Cocks made a short speech in favour of the previous question.

The Attorney General said, the Act of the 13th Charles II. did no more than put the subscriptions then offered upon the same footing with a subsidy, in as far as was necessary to enable the Crown to compel payment by law.

Mr. Powys said, he did not admit that it was legal for the Crown to receive one sixpence of the voluntary subscriptions till sanctioned by Parliament.

Mr. Windham rose to explain. He said, in 1778 he had argued merely on the doubt respecting the legality which was then stated by great authorities. He should be glad to hear what principles he had abandoned. The Hon. Gentleman (Mr. Sheridan) had been pleased to find fault with him for having abandoned his old friends, and for having joined the Right Hon. Gentleman: He said he had the same reason to complain of the Gentlemen over the way. He had the same right to say that they had abandoned him. He had formerly acted with them because he disagreed with the Right Hon. Gentleman, and he had now abandoned them because he agreed with the Right Hon. Gentleman. He had no opportunity that night, though he most heartily wished he had a fair opportunity, of explaining to his old friends, all the reasons that had induced him to abandon them. He hoped to have that opportunity on some future day.

. Mr.

Mr. Sheridan said, the whole tenor of the act of 13th Charles II. was inconsistent with the explanation given of it by the Attorney General. The Hon. Gentleman who spoke last had qualified his opinion with an *if*, which was an excellent peace-maker.

The House divided at two o'clock, when the numbers were,

For the Previous Question 204
Against it 34

Majority 170

Adjourned.

List of the Minority on the Motion of *Mr. Sheridan*, against the private Benevolences demanded by Government.

Aubrey, Sir John	North, Dudley
Baker, William	Philips, John
Bouverie, Edward	Plumer, William
Burch, J. R.	Rawdon, Hon. John
Byng, George	Robinson, Maurice
Courtenay, John	Russell, Lord William
Crespigny, T. C.	Sheridan, R. B.
Fitzpatrick, General	Smith, William
Fox, R. H. C. J.	Speed, Henry
Francis, Philip	Spencer, Lord Robert
Harcourt, John	Taylor, M. A.
Harrison, John	Townshend, Lord John
Howard, Henry	Vaughan, Benjamin
Jervoise, C. J.	Whitbread, Samuel
Law, Ewan	Western, C. C.
Ludlow, Earl	Wilbraham, R.
Macleod, Colonel	Winnington, Sir Edward

TELLERS.

Grey, Charles

Tarleton, Colonel.

HOUSE OF LORDS.

MONDAY, *March 31.*

NAVIGATION LAWS.

Lord Hawkebury moved, that the House be summoned for Thursday the 3d of April, to take into consideration the renewal of the Navigation Laws.—Ordered.

HOUSE

HOUSE OF COMMONS.

MONDAY, *March 31.*

A new writ was ordered for Cambridge, in the room of Lord Euston, who has accepted of the office of Ranger of Hyde and St. James's Parks.

INDIA BUDGET.

Mr. Secretary Dundas said, that certain accounts necessary to be referred to in his statement of the affairs of India were not yet ready, and therefore he should propose that the business he intended to bring forward that day, should be postponed to Friday next. He therefore moved, "That the House should resolve itself into a Committee of the whole House, on Friday next, to consider of the several accounts and papers presented by the East India Company to the House."—Agreed to.

He moved for several further India Accounts; which were all ordered to be laid before the House.

Mr. Secretary Dundas moved for leave to bring in a Bill for instituting a Court of Criminal Judicature for Norfolk Island.—Agreed to.

SUPPLY.

Mr. Hobart brought up the report of the Committee of Supply, containing, among others, a resolution that the sum of 300,151. be granted to his Majesty for seven regiments of defensive cavalry, &c.—The resolutions were read, agreed to, and Bills were ordered to be brought in, in pursuance of them.

WAYS AND MEANS, AND LOTTERY.

Mr. Hobart brought up the report of the Committee of Ways and Means, containing a resolution that 740,666l. 13s. 6d. be raised by way of lottery, which is to consist of 40,000 tickets, at 18l. 10s. 4d. each—stating the instalments by which the purchasers of tickets are to make good their payments, &c. The resolution being read,

Mr. M. A. Taylor begged the Chancellor of the Exchequer's attention for a moment.—When the Right Hon. Gentleman introduced the lottery this year, he stated to the House, that he had reason to believe, the evil of insurance was in a great measure done away by the last regulation.—This was erroneous: He did not mean to charge the minister with having attempted to impose on the House; he must have been misinformed

Mr. Taylor said, he had since made inquiry respecting that subject, the result of which was, that he found the evil was in no shape done away or diminished. After he came into the House that day, he was met by an Hon. Alderman of the city of London (who was not then in the House); he stated to him, that his observation coincided with his own. He had, he said, conversation with several others, and they all confirmed what he had already said with regard to the Lottery; if the minister made further inquiry, he would find he had been wrongly informed on this subject. He should not then oppose the lottery, because the bargain was made; but he begged it now to be understood, that if the minister should propose a lottery in the ensuing session of Parliament, he should oppose that measure, and take the sense of the House upon it. If this tax had been given notice of a week ago, he should have opposed it; but under all the circumstances of the present case, he should not oppose it. He should oppose the next, if brought forward, both when opened in the Committee of Ways and Means, and also when it should be afterwards brought before the House.

The resolution was then read a second time, agreed to, and a Bill ordered to be brought in pursuant to it.

VOLUNTEER BILL.

The Chancellor of the Exchequer moved, that the order of the day, for going into a Committee of the whole House, on the Bill for providing regulations with respect to such men as shall voluntarily enroll themselves for the internal defence of the country, be read; which being done,

Mr. Honeywood adverted to what had passed the other day, on the subject of subscriptions for raising troops. He said, that having given his opinion on that subject, it was unnecessary for him to repeat it: He felt great difficulty on it, until the message came regularly from the Throne to that House; but after the Address was carried, he felt himself in some degree relieved, and he attended a meeting of his constituents, convened by the Sheriff of the county of Kent. With respect to the proceedings on that occasion, he was put under a new difficulty, and that upon a point in which the liberty of the people of Great Britain was materially concerned: He meant the manner in which accounts of the proceedings were to be published. The Sheriff had signed two accounts of these proceedings, at least the Sheriff's authority was stated as having been given to two accounts. In the county paper, his (*Mr. Honeywood's*) name stood to a resolution to which he never agreed,

agreed, which the Sheriff never put, or if he did, it was after he (Mr. Honeywood) had left the room. In one of the newspapers it appeared in the form of the requisition of the Sheriff. But as the resolution he before alluded to bore his name, and he had never signed it, agreed to it, nor even heard it put, he felt himself so far concerned as to render it necessary for him to make this public declaration, that his sentiments on this public business should not be misunderstood. The resolution, with his name to it, and which he disclaimed, appeared as a request from the Lord Lieutenant of the county, to allow other county plans to be entered into. He agreed to nothing of such a nature. The practice of sending from the Secretary of State a requisition to the Lord Lieutenant, to be from him recommended or communicated to the Grand Jury, for the purpose of raising any men without the consent of Parliament, was what he thought unconstitutional and dangerous, and what it concerned him to disclaim. He did not mean to accuse the Sheriff of having done intentionally any thing that was wrong. Country gentlemen were not men of business in general, and in the hurry of it might make mistakes. But he must explain for himself, for this was a resolution he never would have acceded to. Having said this, he must now observe, that the measure before the House had his concurrence, as a matter of necessity. It was necessary for the safety of the country. This country was in a lamentable situation, and sorry he was to see it: He would do every thing in his power to support it, and to remove the difficulty if possible; but, in doing so, he must take care he did not pass the limits of the constitution itself. He thought he knew the value of the constitution; and he must say that, after all he had heard on the subject, it appeared to him, that the most dangerous prerogative the King of this country could ever possess, was that of raising troops by subscription, as some proposed, without the consent of Parliament. Even the thought of the Bill now before the House could not be entertained for a day under any excuse but the most pressing necessity.

The Chancellor of the Exchequer said, that the principle of the subject now before the House had been fully discussed on a former occasion; but he must state to the House, that as different Gentlemen had suggested several points to him, which he was not ready to lay before the House fully, it might be proper that the Committee on the Bill might be postponed till the next day.

Mr. M. A. Taylor said, he did not understand that the House had come to any determination, or to any thing like a determination, that the raising of troops by subscription was

legal or constitutional. He could not think the previous question was a negative to a proposition. He wished the House to understand, and the people of this country to understand, that the House of Commons had given no opinion upon the subject of raising troops by subscription.

The Chancellor of the Exchequer said, he conceived that the House had thought it proper not to come to the question.

Mr. M. A. Taylor said, just so; but the House had not said that the raising men, without the consent of the Parliament, was legal or constitutional.

Mr. Francis said, that the Hon. Gentleman who first spoke had stated a very important fact; and he wished him to declare, whether the meeting was not adjourned before he arrived at it.

Mr. Speaker thought the question irrelevant; which *Mr. Francis* directly acceded to.

The House then agreed to go into a Committee of the whole House on this Bill the next day.

CIRCULAR LETTERS.

Mr. Sheridan said, that as much stress had been laid upon the several answers returned to Lord Shelburne's circular letter, upon the debate on a former night, when they wished to fix a charge of inconsistency upon his Hon. Friend (*Mr. Fox*), he should therefore move for papers which appeared to him to be so much of course to grant, that he conceived it would not be possible reasonably to object to their being laid before the House. Had he entertained any doubt on that subject, he should have previously given notice of his intention to move for them. He would, however, assign an additional reason for moving for these papers. It was because a Learned Gentleman, in the course of the debate on Friday the 28th of March, had quoted extracts from them, and laid a considerable stress on these partial parts, in order to prove, as he said, that a subscription for raising troops had been thought of by Administration in the year 1782. He therefore moved, "That an humble Address be presented to his Majesty, humbly praying, that he will be pleased to give directions for laying before the House, Copies of all the Answers received by his Majesty's Secretary of State, to the circular letter written by the Earl of Shelburne, containing plans for raising voluntary corps for the internal defence of the kingdom for the year 1782."

The Chancellor of the Exchequer said, that the same motion was made in the year 1782, and opposed by the Right Hon. Gentleman (*Mr. Fox*), who was then Secretary of State, and when the Hon. Gentleman, who made this motion, was himself in an official situation in the Government of this country.

The House had then thought fit to refuse these very papers; for the sake of the consistency of the Journals, therefore, he was desirous it should not appear that papers, which had been refused when the subject was in agitation, should be granted when they became merely matter of history. He desired the Journals to be read, which being done, it appeared, that a motion was made for those papers on the 11th of June, on which a debate arose, and the House divided, when the motion passed in the negative, there being 68 against 22.

Mr. Grey could not accede to the validity of the Chancellor of the Exchequer's reasoning. He thought there might be good reason for refusing the papers at that time, because the answers might expose the weakness, perhaps, of some parts of the country, and therefore it might be prudent, under the then existing circumstances, to refuse to grant them. But we were under no such circumstances as to those papers at this time.

Mr. Francis was of opinion, that if consistency was the object, that had been done away already by the use that had been made of the extracts from these papers in the debate on Friday.

Mr. Sheridan ridiculed the Chancellor of the Exchequer's declaration for consistency, as an affected regard for consistency to conceal a subterfuge. The real esteem he had for that merit was evident in the manner he refused on one day, and agreed the next, to receive the petition of *Mr. Palmer*; and to refuse and grant the Secretary of State's circular Letter to the Lords Lieutenants. The truth was, *Mr. Sheridan* said, that this was a scheme of the minister to make a false impression on some part of the House, and what part he could of the Public. The Attorney General was to come forward with garbled accounts, and partial extracts, of returns to Lord Shelburne's Letter in 1782, and from that to argue that Subscriptions had been generally agreed upon for supporting the executive power in the year 1782. This was so unworthy an attempt, that he must take the sense of the House upon it; and venture further to say, that if it should then be defeated, he would bring this subject forward again in a more formal shape.

The House divided.

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Majority 68

The other orders of the day were gone through without any debate.

Adjourned.

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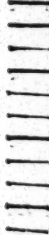


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ERRATA.

The numbers on the division on Mr. Grey's Motion reſpecting a Bill of Indemnity (page 332), ought to have ſtood thus :

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The Speech attributed to Mr. Eaſt, page 367, was ſpoken by Mr. H. Addington.

